

LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, KENTUCKY,  
AS TRUSTOR

TO

DEUTSCHE BANK TRUST COMPANY AMERICAS  
AS TRUSTEE,  
PAYING AGENT AND BOND REGISTRAR

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AMENDED AND RESTATED INDENTURE OF TRUST  
SECURING LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, KENTUCKY,  
POLLUTION CONTROL REVENUE BONDS  
2005 SERIES A (LOUISVILLE GAS AND ELECTRIC COMPANY PROJECT)

\* \* \* \* \*

Dated as of February 1, 2005

Amended and Restated as of September 1, 2008

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AMENDED AND RESTATED INDENTURE OF TRUST SECURING  
LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, KENTUCKY,  
POLLUTION CONTROL REVENUE BONDS, 2005 SERIES A  
(LOUISVILLE GAS AND ELECTRIC COMPANY PROJECT)

THIS AMENDED AND RESTATED INDENTURE OF TRUST, dated as of February 1, 2005, amended and restated as of September 1, 2008, by and between the LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, KENTUCKY, the governmental successor in interest by operation of law to the County of Jefferson, Kentucky, being a public body corporate and politic duly created and existing as a de jure political subdivision under the Constitution and laws of the Commonwealth of Kentucky, and DEUTSCHE BANK TRUST COMPANY AMERICAS, a New York banking corporation, duly organized and existing under the laws of the State of New York and authorized to accept and execute trusts of the character herein set out (said banking corporation and any successor trustee under this Indenture of Trust hereinafter sometimes referred to as the “Trustee”);

W I T N E S S E T H:

WHEREAS, the Louisville/Jefferson County Metro Government, Kentucky (“Metro Government” or “Issuer”) is the governmental successor in interest by operation of law to the County of Jefferson, Kentucky and constitutes a public body corporate and politic duly created and existing as a de jure political subdivision under the Constitution and laws of the Commonwealth of Kentucky, and pursuant to the provisions of Chapter 67C and Sections 103.200 to 103.285, inclusive, of the Kentucky Revised Statutes (“Act”), Issuer has the power to enter into the transactions contemplated by this Indenture and to carry out its obligations hereunder; and

WHEREAS, Issuer came into legal existence on January 6, 2003 by operation of law and voter approval in accordance with laws now codified as Chapter 67C of the Kentucky Revised Statutes and replaced and superceded the prior governments of both the City of Louisville, Kentucky and the County of Jefferson, Kentucky (the “Predecessor County”) and pursuant to law has mandatorily assumed all existing contracts and obligations of the past City and County and has been endowed with all powers of such prior City and County; and

WHEREAS, the Metro Government, successor to the Predecessor County, is authorized pursuant to the Act to issue negotiable bonds and lend the proceeds from the sale of such bonds to a utility company to finance and refinance the acquisition of “pollution control facilities”, as defined by the Act (“Pollution Control Facilities”) for the abatement and control of air pollution and to refund bonds of the Predecessor County which were previously issued for such purposes; and

WHEREAS, Issuer is further authorized pursuant to the Act to enter into an amended and restated loan agreement, which may include such provisions as Issuer shall deem appropriate and necessary; and

WHEREAS, the Act further provides that title to Pollution Control Facilities shall not be acquired by Issuer in the case of a loan transaction; and

WHEREAS, Louisville Gas and Electric Company, a Kentucky corporation (“Company”), has heretofore, by the issuance of the Refunded 1995 Series A Bonds, hereinafter defined, financed and refinanced all or a portion of the costs of acquisition of certain air pollution control facilities to serve the Mill Creek and Cane Run Generating Stations of Company, which facilities constitute the Project, as hereinafter defined in ARTICLE I (the “Project”), which Project is located within the corporate boundaries of Issuer and consists of certain air pollution control facilities, together with facilities functionally related and subordinate to such facilities in furtherance of the regulations of the Natural Resources and Environmental Protection Cabinet of the Commonwealth of Kentucky and the Air Pollution Control District of Jefferson County, Kentucky, and which Project qualifies for financing within the meaning of the Act; and

WHEREAS, the Project has been completed and placed in operation and has contributed and does contribute to the control, containment, reduction and abatement of atmospheric pollution in the Commonwealth of Kentucky; and

WHEREAS, under date of April 13, 2005, the Issuer, at the request of the Company, issued its “Louisville/Jefferson County Metro Government, Kentucky, Pollution Control Revenue Bonds, 2005 Series A (Louisville Gas and Electric Company Project)”, dated April 13, 2005, of which \$40,000,000 principal amount of such bonds remains outstanding and unpaid (the “2005 Series A Bonds”), such 2005 Series A Bonds having been issued to refund the Refunded 1995 Series A Bonds, hereinafter described, such Refunded 1995 Series A Bonds having been issued to currently refinance certain 1985 Series A Bonds issued in original principal amount of \$65,000,000 of which \$25,000,000 principal amount thereof has matured and has been paid and discharged (the “Original Bonds”) having been issued to finance a portion of the Cost of Construction of the Project, hereinafter described; and

WHEREAS, in respect of the 2005 Series A Bonds, the Issuer entered into an Indenture of Trust dated as of February 1, 2005 with Deutsche Bank Trust Company Americas, as Trustee, Paying Agent and Bond Registrar (the “Trustee”) and it is now appropriate and necessary that such Indenture of Trust, be amended and restated in order to enable the Company to replace the bond insurance with a line of credit, letter of credit, revolving credit agreement, standby credit agreement, guaranty agreement, bond purchase agreement, alternate insurance coverage or guarantees or the direct credit of the Company as deemed proper by the Company; and

WHEREAS, pursuant to and in accordance with the provisions of the Act and an Ordinance duly adopted by the Metro Council of the Issuer on [October 23, 2008], and in furtherance of the purposes of the Act and at the request of the Company, the Issuer has determined to amend and restate the Indenture of Trust to cancel the current bond insurance on the 2005 Series A Bonds and replace such bond insurance with an alternate credit support or the direct credit of the Company; and

WHEREAS, Issuer and Company have entered into an Amended and Restated Loan Agreement of even date herewith (the “Agreement”) in order to replace the bond insurance with a line of credit, letter of credit, revolving credit agreement, standby credit agreement, guaranty agreement, a note, bond purchase agreement, alternate insurance coverage or guarantees or the direct credit of the Company; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the Commonwealth of Kentucky and by the requirements of the Issuer to happen, exist and be performed precedent to and in the execution and delivery of this Amended and Restated Indenture of Trust (the “Indenture”) have happened, have existed and have been performed as so required in order to make this Indenture a valid and binding trust indenture for the security of the holders of the 2005 Series A Bonds of the Issuer hereinafter described and for payment of all amounts due under the Agreement in accordance with their respective terms; and

WHEREAS, the 2005 Series A Bonds shall be issued in substantially the following amended form, with only necessary and appropriate variations, omissions and insertions as permitted or required by this Amended and Restated Indenture of Trust, to-wit:

(AMENDED FORM OF 2005 SERIES A BONDS)

UNLESS THIS 2005 SERIES A BOND IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), TO THE ISSUER OR THE BOND REGISTRAR FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY 2005 SERIES A BOND ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

UNITED STATES OF AMERICA  
COMMONWEALTH OF KENTUCKY  
LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, KENTUCKY,  
POLLUTION CONTROL REVENUE BOND, 2005 SERIES A  
(LOUISVILLE GAS AND ELECTRIC COMPANY PROJECT)

No. R-1

<u>MATURITY DATE</u>	<u>INTEREST RATE MODE</u>	<u>BOND DATE</u>	<u>CUSIP</u>
February 1, 2035	_____*	_____, 2005	_____

To be filled in only if the Interest Rate Mode identified above is the Flexible Rate and Cede & Co. is not the Registered Owner:

<u>Purchase Date and Interest Payment Date</u>	<u>Number of Days in Rate Period</u>	<u>Flexible Rate</u>	<u>Amount of Interest Payable</u>
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Registered Owner:

Principal Amount:

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\* If Fixed Rate, also identify  
length of Fixed Rate Period

KNOW ALL MEN BY THESE PRESENTS: that the Louisville/Jefferson County Metro Government, Kentucky (“Metro Government” or “Issuer”) is the governmental successor in interest to the County of Jefferson, Kentucky and constitutes a public body corporate and politic duly created and existing as a de jure political subdivision under the Constitution and laws of the Commonwealth of Kentucky, for value received, hereby acknowledges itself obligated to, and promises to pay to, the Registered Owner identified above or any registered transferees and assigns thereof (the “Registered Owner”), but only out of the special funds pledged for that purpose as hereinafter provided, and not otherwise, the principal amount identified above, on the maturity date identified above, unless this 2005 Series A Bond shall have been called for redemption in whole or in part and payment of the redemption price shall have been duly made or provided for, upon surrender hereof, and to pay (but only out of the sources hereinafter set out) interest thereon from the last date to which interest has accrued and been paid or duly provided for, or, if no interest has been paid or duly provided for, from the date of the 2005 Series A Bonds set forth above, until payment of said Principal Amount has been made or provided for, at the interest rate determined from time to time for the applicable Interest Rate Mode in the manner described herein and in the Indenture identified herein and payable on the dates set forth herein and in the Indenture, commencing on the first such Interest Payment Date thereafter.

Principal and interest shall be paid in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts. Interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will be paid to the person in whose name this 2005 Series A Bond is registered at the close of business of the Bond Registrar on the Regular Record Date for such interest or, in the case of an Interest Payment Date for a Flexible Rate Period at the opening of business on such Interest Payment Date. Any such interest not so punctually paid or duly provided for shall forthwith cease to be payable to the Registered Owner on such Regular Record Date, or, in the case of such Flexible Rate Period, on such Interest Payment Date, and may be paid to the person in whose name this 2005 Series A Bond is registered at the close of business on a Special Record Date for the payment of such defaulted interest to be fixed by the Bond Registrar, or may be paid, at any time in any other lawful manner, all as more fully provided in the Indenture. The principal or redemption price of this 2005 Series A Bond (or a portion of this 2005 Series A Bond, in the event of a partial redemption) is payable to the Registered Owner hereof, upon presentation and surrender thereof at the designated corporate trust office of Deutsche Bank Trust Company Americas (the “Trustee”) or at the duly designated office of any duly appointed alternate or



successor paying agent (the “Paying Agent”). The interest on this 2005 Series A Bond shall be payable by check mailed on the Interest Payment Date to the Registered Owner of this 2005 Series A Bond as of the applicable Regular Record Date (or, in the event of a Flexible Rate Period, as of the opening of business on such Interest Payment Date) or Special Record Date at such Registered Owner's address as it appears on the Bond Register of the Issuer; provided that interest payable on this 2005 Series A Bond shall, (i) if the Interest Rate Mode is the Daily Rate, the Weekly Rate, the Flexible Rate or the ARS Rate, or (ii) at the written request of the Registered Owner of at least \$1,000,000 aggregate principal amount of 2005 Series A Bonds, in the event the Interest Rate Mode for the 2005 Series A Bonds is the Semi-Annual Rate, the Term Rate or the Fixed Rate, received by the Bond Registrar at least one Business Day prior to any Record Date, be payable to such Registered Owner in immediately available funds by wire transfer to a bank account number of such Registered Owner within the United States or by deposit into a bank account maintained with Trustee or any Paying Agent; provided further that, if the Interest Rate Mode is the Flexible Rate, interest on this 2005 Series A Bond shall be paid only upon presentation and surrender of this 2005 Series A Bond.

The Issuer has established a book-entry system of registration for the 2005 Series A Bonds (the “Book-Entry System”). Except as specifically provided otherwise in the Indenture, DTC (or its nominee) will be the Registered Owner of this 2005 Series A Bond. By acceptance of a confirmation of purchase, delivery or transfer, the Beneficial Owner of this Bond shall be deemed to have agreed to this arrangement. DTC (or its nominee), as Registered Owner of this 2005 Series A Bond, shall be treated as the owner of it for all purposes.

THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE 2005 SERIES A BONDS (HEREINAFTER DEFINED) ARE PAYABLE SOLELY AND ONLY FROM THE SPECIAL FUNDS PLEDGED FOR THEIR BENEFIT PURSUANT TO THE INDENTURE. THIS 2005 SERIES A BOND, AND THE INTEREST AND PREMIUM, IF ANY, THEREON, DO NOT REPRESENT OR CONSTITUTE AN INDEBTEDNESS OF ISSUER OR THE COMMONWEALTH OF KENTUCKY OR ANY POLITICAL SUBDIVISION OF THE COMMONWEALTH OF KENTUCKY WITHIN THE MEANING OF THE PROVISIONS OF THE CONSTITUTION OR STATUTES OF THE COMMONWEALTH OF KENTUCKY OR A PLEDGE OF THE FAITH AND CREDIT OF ISSUER, THE COMMONWEALTH OF KENTUCKY OR ANY POLITICAL SUBDIVISION THEREOF.

If an event of default as defined in the Indenture occurs, the principal of all 2005 Series A Bonds issued under the Indenture may become due and payable upon the conditions and in the manner and with the effect provided in the Indenture.

No recourse shall be had for the payment of the principal or redemption price of, or interest on, this 2005 Series A Bond, or for any claim based hereon or on the Indenture, against any elected official, member, officer, commissioner or employee, past, present or future, of Issuer or of any successor body, as such, either directly or through Issuer or any such successor body, under any constitutional provision, statute or rule of law, or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise.

It is certified and recited that there have been done or performed and have happened in regular and due form, as required by law, all acts and conditions necessary to be done or performed by Issuer or to have happened (i) precedent to and in the issuing of the 2005 Series A Bonds in order to make them legal, valid and binding special and limited obligations of Issuer, and (ii) precedent to and in the execution and delivery of the Indenture and the Agreement (as hereinafter defined); that payment in full for the 2005 Series A Bonds has been received; and that the 2005 Series A Bonds do not exceed or violate any constitutional or statutory limitation.

This 2005 Series A Bond is one of an authorized issue of 2005 Series A Bonds of Issuer designated Louisville/Jefferson County Metro Government, Kentucky, Pollution Control Revenue Bonds, 2005 Series A (Louisville Gas and Electric Company Project), and issued in the original aggregate principal amount of \$40,000,000 (the “2005 Series A Bonds”) for the purpose of paying and discharging the outstanding principal amount of an issue of County of Jefferson, Kentucky, Pollution Control Revenue Bonds, 1995 Series A (Louisville Gas and Electric Company Project), dated April 15, 1995 (the “Refunded 1995 Series A Bonds”), which provided refunding for a portion of the cost of acquisition of certain air pollution facilities for the control, containment, reduction and abatement of air pollution to serve the Mill Creek and Cane Run Generating Stations of Louisville Gas and Electric Company, a Kentucky corporation (“Company”), located within the corporate boundaries of Issuer, which facilities are hereinafter sometimes referred to as the “Project.” The Project has been and will be operated to aid in the control of air pollution. The proceeds of the 2005 Series A Bonds will be loaned to Company under the terms of a Loan Agreement dated as of February 1, 2005, amended and restated September 1, 2008 (which Loan Agreement, as from time to time amended and supplemented, is hereinafter referred to as the “Agreement”, and the loan to be made pursuant to the Agreement is hereinafter referred to as the “Loan”).

The 2005 Series A Bonds are issued under and are equally and ratably secured and entitled to the protection given by an Indenture of Trust dated as of February 1, 2005, amended and restated September 1, 2008 (which Indenture of Trust, as from time to time amended and supplemented, is hereinafter referred to as the “Indenture”), duly executed and delivered by Issuer to Deutsche Bank Trust Company Americas, as Trustee. Pursuant to the Indenture, the Trustee has been appointed as Authenticating Agent, Bond Registrar, Paying Agent and Tender Agent. Reference is made to the Indenture for a description of the property assigned, the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of Issuer, Trustee and the Registered Owners of the 2005 Series A Bonds, the terms upon which the 2005 Series A Bonds are issued and the terms and conditions upon which the 2005 Series A Bonds will be deemed to be paid, at or prior to maturity or redemption of the 2005 Series A Bonds, upon the making of provision for the payment thereof in the manner set forth in the Indenture. Capitalized terms used herein shall have the meanings set forth in the Indenture.

This 2005 Series A Bond shall bear interest at the interest rate or rates determined for the “Interest Rate Mode” (as described more fully in the Indenture) selected from time to time by Company. The Interest Rate Mode for the 2005 Series A Bonds from and including the date of their original issuance is the ARS Rate until Conversion to a different Interest Rate Mode is specified by Company. Company may from time to time convert the Interest Rate Mode for the 2005 Series A Bonds to any other permitted Interest Rate Mode in accordance with the terms of

the Indenture. The “Interest Rate Modes” which may be selected are as follows: (i) a Daily Rate in which the interest rate is determined each Business Day; (ii) a Weekly Rate in which the interest rate is determined on the day preceding each Weekly Rate Period or, if such day is not a Business Day, on the next preceding Business Day; (iii) a Semi-Annual Rate in which the interest rate is determined not later than the Business Day preceding each Semi-Annual Rate Period; (iv) a Term Rate in which the interest rate is determined not later than the Business Day preceding each Term Rate Period; (v) a Fixed Rate for a period selected by Company of more than one year ending on the day preceding an Interest Payment Date, in which the interest rate is determined not later than the Business Day preceding such Fixed Rate Period; (vi) a Flexible Rate for Flexible Rate Periods of not more than 364 days ending on a day preceding a Business Day selected by the Remarketing Agents in which the interest rate is determined on the first day of such Flexible Rate Period and (vii) an ARS Rate in which the interest rate for an ARS Rate Period is determined pursuant to the Auction Procedures set forth as Exhibit D to the Indenture.

Interest on this 2005 Series A Bond at the interest rate or rates for the Daily Rate and the Weekly Rate is payable on the first Business Day of each month; for the Semi-Annual Rate, the Term Rate and the Fixed Rate on February 1 and August 1; for the Fixed Rate on the Conversion Date to another Interest Rate Mode or on the effective date of a change in the Fixed Rate Period; for the Flexible Rate on the last day of each Flexible Rate Period (or if such day is not a Business Day the next succeeding Business Day); for the ARS Rate, (a) when used with respect to any Auction Period other than a daily Auction Period or a Special Auction Period, the Business Day immediately following such Auction Period, (b) when used with respect to a daily Auction Period, the first Business Day of the month immediately succeeding such Auction Period, (c) when used with respect to a Special Auction Period of (i) seven or more but fewer than 183 days, the Business Day immediately following such Special Auction Period, or (ii) more than 182 days, each February 1 and August 1 and on the Business Day immediately following such Special Auction Period (in each case it being understood that in those instances where the immediately preceding Auction Date falls on a day that is not a Business Day, the Interest Payment Date with respect to the succeeding Auction Period shall be one Business Day immediately succeeding the next Auction Date); and, for each Interest Rate Mode, on the Conversion Date to another Interest Rate Mode or on the effective date of a change in the Fixed Rate Period. In any case, the final Interest Payment Date shall be the maturity date of the 2005 Series A Bonds. Interest on this 2005 Series A Bond bearing interest at the Daily Rate, the Weekly Rate and the Flexible Rate shall be computed on the basis of a year of 365 or 366 days, as appropriate, based on the year in which the period commences for the actual number of days elapsed. If the Interest Rate Mode is the Semi-Annual Rate, the Term Rate or the Fixed Rate, interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Interest on the 2005 Series A Bonds bearing interest at an ARS Rate will be computed on the basis of (i) actual days over 360 if the 2005 Series A Bonds are in an Auction Period of 180 days or less or (ii) a 360 day year of twelve 30-day months if the 2005 Series A Bonds are in an Auction Period which is greater than 180 days. The interest rate or rates for each Interest Rate Mode (other than an ARS Rate Period and, if the Interest Rate Mode is the Flexible Rate, the Flexible Rate Periods) for the 2005 Series A Bonds shall be determined by the Remarketing Agents on the dates and at such times as specified in Section 2.02 of the Indenture. If the Remarketing Agents fail to determine the interest rate in accordance with Section 2.02 of the Indenture, the interest rate on this 2005 Series A Bond shall be the interest rate in effect for the previous Rate Period, except as otherwise provided in the Indenture. Except for the ARS Rate,

each interest rate determined by the Remarketing Agents shall be the minimum rate of interest necessary, in the judgment of the Remarketing Agents taking into account Prevailing Market Conditions, to enable the Remarketing Agents to sell the 2005 Series A Bonds (or, in the case of the Flexible Rate, the particular 2005 Series A Bond) at a price equal to the principal amount thereof, plus accrued interest, if any. Notwithstanding the foregoing, the interest rate borne by this 2005 Series A Bond shall not exceed the lesser of (i) the maximum interest rate permitted by applicable law or (ii) 14% per annum.

Redemption; General. The 2005 Series A Bonds are non-callable for redemption except as set forth below and except in the event and to the extent that (1) Company is required to prepay the Loan in whole or in part pursuant to Section 10.3 of the Agreement or (2) Company shall exercise any of its options to prepay the Loan in whole as provided in Section 10.1 of the Agreement or (3) Company elects to redeem 2005 Series A Bonds in whole or in part pursuant to Section 6.1 of the Agreement. If called for redemption pursuant to clause (1), (2) or (3) above, the 2005 Series A Bonds shall be subject to redemption by Issuer at any time in whole or (in the case of redemption pursuant to Sections 6.1 or 10.3 of the Agreement) in part, on any redemption date (which shall be a Business Day) established pursuant to Section 10.4 of the Agreement by lot in such manner as Trustee may determine, at 100% of the principal amount thereof plus accrued interest to the redemption date.

Redemption During ARS Rate Periods. Whenever the Interest Rate Mode for this 2005 Series A Bond is the ARS Rate, this 2005 Series A Bond shall be subject to optional redemption, in whole or in part, at a redemption price of 100% of the principal amount hereof plus accrued interest, if any, on the Interest Payment Date immediately following the end of an Auction Period.

Redemption During Daily, Weekly, Semi-Annual and Flexible Rate Periods. Whenever the Interest Rate Mode is the Semi-Annual Rate or the Flexible Rate, this 2005 Series A Bond shall be subject to optional redemption, in whole or in part, at a redemption price of 100% of the principal amount hereof on any Interest Payment Date for this 2005 Series A Bond. Whenever the Interest Rate Mode is the Daily Rate or the Weekly Rate, this 2005 Series A Bond shall be subject to optional redemption, in whole or in part, at a redemption price of 100% of the principal amount hereof, plus accrued interest, if any, to the redemption date, on any Business Day.

Redemption During Term Rate Periods. Whenever the Interest Rate Mode is the Term Rate, this 2005 Series A Bond shall be subject to optional redemption, in whole or in part, at a redemption price of 100% of the principal amount hereof on the final Interest Payment Date for each Term Rate Period.

Redemption During Fixed Rate Periods. Whenever the Interest Rate Mode for the 2005 Series A Bonds is the Fixed Rate, the 2005 Series A Bonds will be subject to redemption, in whole or in part, at the option of the Issuer, upon the written direction of the Company, (A) on the final Interest Payment Date for the then applicable Interest Rate Period at a redemption price of 100% of the principal amount thereof and (B) prior to the end of the then current Fixed Rate Period at any time during the redemption period and at the redemption price of 100% of the principal amount thereof, plus accrued interest, if any, to the redemption date:

<u>Original Length of Current Fixed Rate</u>	<u>Commencement of Redemption Period</u>
More than or equal to 11 years	First Interest Payment Date on or after the tenth anniversary of commencement of Fixed Rate Period
Less than 11 years	Non-callable

If, at the time of Company's notice of a change in the Fixed Rate Period, or its notice of Conversion of the Interest Rate Mode for the 2005 Series A Bonds to the Fixed Rate, or, when the Interest Rate Mode for the 2005 Series A Bonds is the Fixed Rate, at least forty days prior to the Purchase Date, Company provides a certification of the Remarketing Agents to Trustee, the Bond Registrar, the Paying Agent, the Tender Agent and Issuer that the foregoing schedule is not consistent with Prevailing Market Conditions and an opinion of Bond Counsel that a change in the redemption provisions for the 2005 Series A Bonds will not adversely affect the exclusion from gross income of interest on the 2005 Series A Bonds for federal income tax purposes, the foregoing redemption periods and redemption prices may be revised, effective as of the date of such change in the Fixed Rate Period, the Conversion Date or that Purchase Date, as determined by the Remarketing Agents in their judgment, taking into account the then Prevailing Market Conditions, as stipulated in such certification.

Redemption Procedures and Notices. At least thirty days, and not in excess of forty-five days before the redemption date of any 2005 Series A Bonds in the case of 2005 Series A Bonds bearing interest at the Semi-Annual Rate, the Term Rate or the Fixed Rate, and at least fifteen days and not in excess of forty-five days before the redemption date of any 2005 Series A Bonds in the case of 2005 Series A Bonds bearing interest at the Daily Rate, Weekly Rate, Flexible Rate or ARS Rate, Trustee shall cause notice of redemption to be sent by first class mail, postage prepaid, to all Registered Owners of 2005 Series A Bonds to be redeemed in whole or in part at their registered addresses as shown on the Bond Register maintained by the Bond Registrar and to the Auction Agent. So long as the 2005 Series A Bonds are registered under the Book-Entry System with DTC (or its nominee) or a successor Securities Depository, the notice of redemption will additionally contain the data and instructions regarding the technical duties of such Securities Depository as specified in the Indenture.

Any notice mailed as provided in the Indenture shall be conclusively presumed to have been duly given, irrespective of whether the Registered Owner receives the notice. Failure to mail any notice or any defect therein in respect of any 2005 Series A Bond shall not affect the validity of the redemption of any other 2005 Series A Bond. All 2005 Series A Bonds called for redemption as herein provided will cease to bear interest after the date fixed for redemption provided funds for their redemption are on deposit with the Trustee at the place of payment at that time. So long as DTC or its nominee is the sole registered owner of the 2005 Series A Bonds under the Book-Entry System, any failure on the part of DTC or a DTC Participant to notify the Beneficial Owner so affected shall not affect the validity of any redemption of 2005 Series A Bonds.

## PURCHASE OF BONDS

This 2005 Series A Bond shall be subject to mandatory tender for purchase in whole (i) on the effective date of (a) any Conversion of the Interest Rate Mode for the 2005 Series A Bonds or (b) a change by Company of the length of a Fixed Rate Period, (ii) on each Interest Payment Date for a Flexible Rate Period and (iii) on the first Business Day after the end of each Semi-Annual Rate Period, Term Rate Period and Fixed Rate Period, in each case, at a purchase price equal to 100% of the principal amount hereof, plus, if the Interest Rate Mode is the Fixed Rate, the optional redemption premium, if any, which would be payable if the 2005 Series A Bonds were redeemed on such date, plus accrued interest, if any, to the Purchase Date.

This 2005 Series A Bond, or a portion hereof in an Authorized Denomination (provided that the portion of this 2005 Series A Bond to be retained by the Registered Owner shall also be in an Authorized Denomination), shall be purchased on the demand of the Registered Owner hereof at the times and the prices set forth below for the applicable Interest Rate Mode; provided, that if the Interest Rate Mode is the ARS Rate or Flexible Rate, the Registered Owner shall have no right to demand purchase of this 2005 Series A Bond. If the Interest Rate Mode is the Daily Rate, this 2005 Series A Bond shall be purchased on the demand of the Registered Owner hereof on any Business Day at a purchase price equal to the principal amount hereof plus accrued interest, if any, to the Purchase Date upon written notice or telephonic notice to the Tender Agent not later than 10:00 a.m. (New York City time) on such Business Day. If the Interest Rate Mode is the Weekly Rate, this 2005 Series A Bond shall be purchased on the demand of the Registered Owner hereof on any Business Day at a purchase price equal to the principal amount hereof, plus accrued interest, if any, to the Purchase Date, upon written notice to the Tender Agent at or before 5:00 p.m. (New York City time) on a Business Day not later than the seventh day prior to the Purchase Date. If the Interest Rate Mode is the Semi-Annual Rate, this 2005 Series A Bond shall be purchased on the demand of the Registered Owner hereof on any Interest Payment Date, at a purchase price equal to the principal amount hereof, upon written notice to the Tender Agent on a Business Day not later than the fifteenth day prior to such Purchase Date. If the Interest Rate Mode is the Term Rate or the Fixed Rate, this 2005 Series A Bond shall be purchased on the demand of the Registered Owner hereof on the final Interest Payment Date for the Term Rate Period or the Fixed Rate Period, as the case may be, at a purchase price equal to the principal amount hereof, upon written notice to the Tender Agent on a Business Day not later than the fifteenth day prior to such Purchase Date.

Any notice in connection with a demand for purchase of this 2005 Series A Bond as set forth in the preceding paragraph hereof shall be given at the address of the Tender Agent designated to Trustee and shall (A) state the number and principal amount (or portion hereof in an Authorized Denomination) of this 2005 Series A Bond to be purchased, (B) state the Purchase Date on which this 2005 Series A Bond shall be purchased and (C) irrevocably request such purchase and state that the Registered Owner agrees to deliver this 2005 Series A Bond to the Tender Agent on the Purchase Date. ANY SUCH NOTICE SHALL BE IRREVOCABLE WITH RESPECT TO THE PURCHASE FOR WHICH SUCH DIRECTION WAS DELIVERED AND, UNTIL SURRENDERED TO THE TENDER AGENT, THIS 2005 SERIES A BOND OR ANY PORTION HEREOF WITH RESPECT TO WHICH SUCH DIRECTION WAS DELIVERED SHALL NOT BE TRANSFERABLE. When a Book-Entry System is not in effect, this 2005 Series A Bond must be delivered (together with an appropriate

instrument of transfer executed in blank with all signatures guaranteed in form satisfactory to the Tender Agent) at the principal corporate trust office of the Tender Agent at or prior to 12:00 noon (1:00 p.m. during a Daily Rate Period) (New York City time) on the date specified in the aforesaid notice in order for the Registered Owner hereof to receive payment of the purchase price due on such Purchase Date; provided, that, if this 2005 Series A Bond is being delivered for purchase during a Semi-Annual Rate Period, Term Rate Period or Fixed Rate Period, such 2005 Series A Bond must be so delivered by 11:00 a.m. (New York City time) on such Purchase Date. WHEN A BOOK-ENTRY SYSTEM IS NOT IN EFFECT, NO REGISTERED OWNER SHALL BE ENTITLED TO PAYMENT OF THE PURCHASE PRICE DUE ON SUCH PURCHASE DATE EXCEPT UPON SURRENDER OF THIS 2005 SERIES A BOND AS SET FORTH HEREIN. When a Book-Entry System is in effect, the requirement for physical delivery of the 2005 Series A Bonds under this paragraph shall be deemed satisfied when the ownership rights in the 2005 Series A Bonds (to the extent of the principal amount tendered for the purchase) are transferred by DTC Participants on the records of the DTC. Notwithstanding the foregoing, this 2005 Series A Bond shall not be purchased during the existence of an Event of Default under Section 9.01(a) or (b) of the Indenture. No purchase of 2005 Series A Bonds pursuant to Section 3.01 of the Indenture shall be deemed to be a payment or redemption of such 2005 Series A Bonds or any portion thereof within the meaning of the Indenture.

BY ACCEPTANCE OF THIS 2005 SERIES A BOND, THE REGISTERED OWNER HEREOF AGREES THAT THIS 2005 SERIES A BOND WILL BE PURCHASED, WHETHER OR NOT SURRENDERED, (A) ON THE APPLICABLE PURCHASE DATE IN CONNECTION WITH THE EXPIRATION OF EACH FLEXIBLE RATE PERIOD FOR THIS 2005 SERIES A BOND OR ON A CHANGE OF THE FIXED RATE PERIOD OR ON CONVERSION OF THE INTEREST RATE MODE OF THE 2005 SERIES A BONDS OR (B) ON ANY PURCHASE DATE SPECIFIED BY THE REGISTERED OWNER HEREOF IN THE EXERCISE OF THE RIGHT TO DEMAND PURCHASE OF THIS 2005 SERIES A BOND AS DESCRIBED ABOVE. IN SUCH EVENT, THE REGISTERED OWNER OF THIS 2005 SERIES A BOND SHALL NOT BE ENTITLED TO RECEIVE ANY FURTHER INTEREST HEREON AND SHALL HAVE NO FURTHER RIGHTS UNDER THIS 2005 SERIES A BOND OR THE INDENTURE EXCEPT TO PAYMENT OF THE PURCHASE PRICE HELD THEREFOR.

The initial Remarketing Agents under the Indenture are Goldman, Sachs & Co. and UBS Financial Services Inc. The initial Tender Agent under the Indenture is Deutsche Bank Trust Company Americas. The initial Auction Agent under the Indenture is Deutsche Bank Trust Company Americas. The Remarketing Agents, the Tender Agent and the Auction Agent may be changed at any time in accordance with the Indenture. The initial Bond Registrar and Paying Agent under the Indenture is the Trustee.

The 2005 Series A Bonds are issuable only as fully-registered 2005 Series A Bonds in the following authorized denominations: if the Interest Rate Mode is the Daily Rate or Weekly Rate, a minimum denomination of \$100,000 and integral multiples thereof; if the Interest Rate Mode is the Flexible Rate, a minimum denomination of \$100,000 and integral multiples of \$5,000 in excess of such minimum denomination; if the Interest Rate Mode is the Semi-Annual Rate, Term Rate or Fixed Rate, denominations of \$5,000 and any integral multiple thereof; and if the Interest Rate Mode is the ARS Rate, denominations of \$25,000 and any integral multiple thereof. Subject

to the limitations provided in the Indenture and upon payment of any tax or governmental charge, 2005 Series A Bonds may be exchanged for a like aggregate principal amount of 2005 Series A Bonds of other authorized denominations.

This 2005 Series A Bond is transferable by the Registered Owner hereof or his duly authorized attorney at the principal corporate trust office of the Bond Registrar upon surrender of this 2005 Series A Bond, accompanied by a duly executed instrument of transfer in form and with guaranty of signature satisfactory to the Bond Registrar, subject to such reasonable regulations as Issuer, Trustee or the Bond Registrar may prescribe, and upon payment of any tax or other governmental charge incident to such transfer; PROVIDED, THAT, IF MONEYS FOR THE PURCHASE OF THIS 2005 SERIES A BOND HAVE BEEN DEPOSITED WITH THE TENDER AGENT IN THE MANNER PROVIDED UNDER THE INDENTURE FOR PURCHASE OF 2005 SERIES A BONDS UNDER CERTAIN CIRCUMSTANCES, THIS 2005 SERIES A BOND SHALL NOT BE TRANSFERABLE TO ANYONE UNTIL DELIVERED TO THE TENDER AGENT AND PROVIDED FURTHER THAT NEITHER THE ISSUER NOR THE BOND REGISTRAR SHALL BE REQUIRED (i) TO REGISTER THE TRANSFER OF OR EXCHANGE ANY 2005 SERIES A BOND DURING A PERIOD BEGINNING AT THE OPENING OF BUSINESS FIFTEEN (15) DAYS BEFORE THE DAY OF MAILING OF A NOTICE OF REDEMPTION OF 2005 SERIES A BONDS SELECTED FOR REDEMPTION AND ENDING AT THE CLOSE OF BUSINESS ON THE DAY OF SUCH MAILING, (ii) TO REGISTER THE TRANSFER OF OR EXCHANGE ANY 2005 SERIES A BOND SO SELECTED FOR REDEMPTION IN WHOLE OR IN PART, OR (iii) OTHER THAN PURSUANT TO ARTICLE III OF THE INDENTURE, TO REGISTER ANY TRANSFER OF OR EXCHANGE ANY 2005 SERIES A BOND WITH RESPECT TO WHICH THE OWNER HAS SUBMITTED A DEMAND FOR PURCHASE IN ACCORDANCE WITH SECTION 3.01(a) OR WHICH HAS BEEN PURCHASED PURSUANT TO SECTION 3.01(b) OF THE INDENTURE. Upon any such transfer, a new 2005 Series A Bond or 2005 Series A Bonds in the same aggregate principal amount will be issued to the transferee. Except as set forth in this 2005 Series A Bond and as otherwise provided in the Indenture, the person in whose name this 2005 Series A Bond is registered shall be deemed the Registered Owner hereof for all purposes, and the Issuer, any Paying Agents, the Bond Registrar, the Tender Agent, the Remarketing Agents, the Auction Agent and the Trustee shall not be affected by any notice to the contrary. Except as otherwise specifically provided herein and in the Indenture with respect to rights of DTC Participants and Beneficial Owners when a Book-Entry System is in effect, the Registered Owner of this 2005 Series A Bond shall be treated as the owner of it for all purposes.

The 2005 Series A Bonds are issued pursuant to and in full compliance with the Constitution and laws of the Commonwealth of Kentucky, particular reference being made to Chapter 67C and Sections 103.200 to 103.285, inclusive, of the Kentucky Revised Statutes, and pursuant to an Ordinance duly adopted by Issuer, which Ordinance authorizes the execution and delivery of the Agreement and the Indenture. This 2005 Series A Bond and the issue of which it forms a part are special and limited obligations of Issuer and are payable solely and only out of the revenues and other amounts derived from the Agreement, and are secured as set forth in the Indenture. The 2005 Series A Bonds and the interest thereon shall never constitute a debt, indebtedness or general obligation or a pledge of the faith and credit of the Commonwealth of Kentucky or any political subdivision thereof, including Issuer, within the meaning of any provision or limitation of the Constitution or Statutes of the Commonwealth of Kentucky, and



shall not constitute nor give rise to a pecuniary liability of Issuer, or a charge against its general credit or taxing powers. Neither the Commonwealth of Kentucky nor any political subdivision thereof nor Issuer shall be obligated to pay the principal of the 2005 Series A Bonds, the premium, if any, or interest thereon or other costs incident thereto except from the revenues and amounts pledged therefor and neither the faith and credit nor the taxing power of the Commonwealth of Kentucky or any political subdivision thereof or Issuer is pledged to the payment of the principal of the 2005 Series A Bonds or the premium, if any, or interest thereon or other costs incident thereto. Payments sufficient for the prompt payment when due of the principal of, premium, if any, and interest on the 2005 Series A Bonds are to be paid to Trustee by Company for the account of Issuer and deposited in a special account created by Issuer and designated "Louisville/Jefferson County Metro Government, Kentucky, Pollution Control Revenue Bond Fund, 2005 Series A (Louisville Gas and Electric Company Project)," and have been duly assigned for that purpose. The Agreement and all rights of Issuer under the Agreement (except for certain rights to indemnification and payment of expenses) have been assigned to Trustee to further secure payment of such principal, premium, if any, and interest, under the Indenture.

The Registered Owner of this 2005 Series A Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of the 2005 Series A Bonds may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of Issuer and the rights of the holders of the 2005 Series A Bonds, at any time by Issuer with the consent of the Registered Owners of a majority in aggregate principal amount of the 2005 Series A Bonds at the time outstanding, as defined in the Indenture. Any such consent or waiver by the Registered Owner of this 2005 Series A Bond shall be conclusive and binding upon such Registered Owner and upon all future Registered Owners of this 2005 Series A Bond and of any 2005 Series A Bond issued upon the transfer or exchange of this 2005 Series A Bond whether or not notation of such consent or waiver is made upon this 2005 Series A Bond. The Indenture also contains provisions permitting Trustee to waive certain past defaults under the Indenture and their consequences.

This 2005 Series A Bond is issued under and pursuant to the Constitution and statutory laws of the Commonwealth of Kentucky, and its construction shall be governed thereby.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and issuance of this 2005 Series A Bond do exist, have happened and have been performed in due time, form and manner as required by law; that the issuance of this 2005 Series A Bond and the issue of which it forms a part, together with all other obligations of Issuer, does not exceed or violate any constitutional or statutory limitation; and that the revenues assigned to the payment of the principal of, premium, if any, and interest on this 2005 Series A Bond and the issue of which it forms a part, as the same become due, will be sufficient in amount for that purpose.

This 2005 Series A Bond shall not be valid or become obligatory for any purpose, or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon endorsed shall have been executed by the Trustee, as Authenticating Agent, or any other Authenticating Agent. All acts, conditions and things required by the Constitution and laws of the Commonwealth of Kentucky to happen, exist, and be performed precedent to and in the issuance of this 2005 Series A Bond, have happened, do exist, and have been performed as so required.

This 2005 Series A Bond is exempt from taxation by the Commonwealth of Kentucky and by all of the municipalities and political subdivisions thereof.

IN WITNESS WHEREOF, the Louisville/Jefferson County Metro Government, Kentucky, under the authority aforesaid, has caused this 2005 Series A Bond to be executed with the reproduced facsimile of the official signature or official manual signature of the Mayor, to be sealed by an impression or a reproduced facsimile of the official seal of such Louisville/Jefferson County Metro Government, Kentucky and to be attested by the reproduced facsimile signature or official manual signature of the Clerk of the Metro Council, each as an Authorized Officer.

(SEAL)

CERTIFICATE OF AUTHENTICATION

LOUISVILLE/JEFFERSON COUNTY  
METRO GOVERNMENT, KENTUCKY

This 2005 Series A Bond is one of the  
2005 Series A Bonds authorized and  
described in the within-mentioned Indenture.

(Manual or Facsimile Signature)  
Mayor

Date of Authentication

DEUTSCHE BANK TRUST  
COMPANY AMERICAS  
Trustee, Paying Agent and  
Bond Registrar

ATTEST:

By (Manual Signature)  
Authorized Signatory

(Manual or Facsimile Signature)  
Clerk of the Metro Council

[Form of Abbreviations]

The following abbreviations, when used in the inscription on the face of the within 2005 Series A Bond, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM - as tenants in common

JT TEN - as joint tenants with right of

survivorship and not as tenants in common

UNIF TRANS MIN ACT - \_\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)

under Uniform Transfers to Minors Act \_\_\_\_\_  
(State)

Additional abbreviations may also be used though not in list above.

#### ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto \_\_\_\_\_

\_\_\_\_\_  
(Name and Address of Assignee)

the within 2005 Series A Bond and does hereby irrevocably constitute and appoint to transfer the said 2005 Series A Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature guaranteed:

NOTICE: The signature on this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within 2005 Series A Bond in every particular, without alteration or enlargement or any change whatever.

(END FORM OF 2005 SERIES A BOND)

WHEREAS, all things necessary to make the 2005 Series A Bonds, when authenticated by Authenticating Agent and issued as in this Indenture provided, the valid, binding and legal obligations of Issuer according to the import thereof, and to constitute this Indenture of Trust a valid assignment of the amounts pledged to the payment of principal of or purchase price, premium, if any, and interest on the 2005 Series A Bonds and a valid assignment of the Agreement and all rights of Issuer under the Agreement (except for certain rights to indemnification and payment of expenses) have been done and performed, and the creation, execution and delivery of this Indenture, and execution and issuance of the 2005 Series A Bonds, subject to the terms hereof, have in all respects been duly authorized;

#### GRANTING CLAUSES

NOW, THEREFORE, Issuer, in consideration of the premises and the acceptance by Trustee of the trusts hereby created and of the purchase and acceptance of the 2005 Series A

Bonds by the holders and owners thereof, and of the sum of one dollar, in lawful money of the United States of America, to it duly paid at or before the execution and delivery of these presents, and for other good and valuable considerations, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of, premium, if any, and interest on the 2005 Series A Bonds according to their tenor and effect and to secure the performance and observance by Issuer of all the covenants and obligations expressed or implied herein and in the 2005 Series A Bonds, does hereby grant, alien, bargain, sell, convey, mortgage, assign and pledge unto, and grant a security interest in the following to, Deutsche Bank Trust Company Americas, as Trustee, and its successors in trust and assigns forever:

#### GRANTING CLAUSE FIRST

The Agreement, including all rights, titles and interests of Issuer, as lender therein, thereto and thereunder, including any extensions and renewals of the term thereof, including, but without limiting the generality of the foregoing, the present and continuing right to make claim for, collect, receive and receipt for any payments and other sums of money or securities payable or receivable thereunder whether payable or receivable as loan payments thereunder or otherwise, to bring any actions and proceedings thereunder or for the enforcement thereof, and to do any and all other things which Issuer or any lender is or may become entitled to do under the Agreement, provided that the assignment made by this clause shall not extend to or include Issuer's rights to indemnification, reimbursement or notice or payment of fees or expenses under the Agreement and shall not impair or diminish any obligation of Issuer under the provisions of the Agreement.

#### GRANTING CLAUSE SECOND

The Bond Fund (as hereinafter defined and including all moneys and securities therein), all other moneys and securities from time to time held by Trustee under the terms of this Indenture and any and all other real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind conveyed, pledged, assigned or transferred as and for additional security hereunder by Issuer or by anyone in its behalf, or with its written consent, to Trustee and Trustee is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof, provided that the assignment shall not extend to or include any moneys held in or earnings on the Rebate Fund and the Purchase Fund, each, as hereinafter defined.

TO HAVE AND TO HOLD all and singular the Trust Estate, whether now owned or hereafter acquired, unto Trustee and its respective successors in trust and assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all present and future holders and owners of any 2005 Series A Bonds issued under and secured by this Indenture of Trust without privilege, priority or distinction as to the lien or otherwise of any of the 2005 Series A Bonds over any of the other 2005 Series A Bonds;

PROVIDED, HOWEVER, that if Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, the principal of, premium, if any, and interest on the 2005 Series A

Bonds due or to become due thereon, at the times and in the manner mentioned in the 2005 Series A Bonds, according to the true intent and meaning thereof, and shall cause the payments to be made into the Bond Fund as required under ARTICLE VI hereof, or shall provide, as permitted hereby, for the payment thereof by depositing with Trustee certain securities or the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture of Trust to be kept, performed and observed by it, and shall pay or cause to be paid to Trustee and any Paying Agent all sums of money due or to become due to either of them in accordance with the terms and provisions hereof, then upon such final payments and subject to ARTICLE VIII this Indenture of Trust and the rights hereby granted shall cease, determine and be void; otherwise this Indenture of Trust to be and remain in full force and effect.

THIS INDENTURE OF TRUST FURTHER WITNESSETH, and it is expressly declared, that all 2005 Series A Bonds issued and secured hereunder are to be issued, authenticated and delivered, and all said property, rights and interests, including, without limitation, the amounts hereby assigned, are to be dealt with and disposed of, under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes hereinafter expressed, and that Issuer has agreed and covenanted, and does hereby agree and covenant with Trustee and with the respective holders and owners, from time to time, of said 2005 Series A Bonds or any part thereof, as follows:

## **ARTICLE I**

### **DEFINITIONS**

Unless the context clearly indicates some other meaning, the following words and terms shall, for all purposes of this Indenture of Trust, have the following meanings:

“Act” means Chapter 67C and Sections 103.200 to 103.285, inclusive, of the Kentucky Revised Statutes.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, “control” when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing. With respect to 2005 Series A Bonds bearing interest at the ARS Rate, if any, that term shall mean any person known to the Auction Agent to be controlled by, in control of or under common control with the Company; provided that no Broker-Dealer shall be deemed an Affiliate solely because a director or executive officer of such Broker-Dealer or of any person controlling, controlled by or under common control with such Broker-Dealer is also a director of the Company.

“Agent Member” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“All Hold Rate” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Agreement” means the Loan Agreement dated as of February 1, 2005, as amended and restated as of September 1, 2008, by and between Issuer and Company, and any amendments and supplements thereto.

“ARS” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“ARS Index” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“ARS Rate” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“ARS Rate Conversion Date” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“ARS Rate Period” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Auction” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Auction Agent” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Auction Agreement” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Auction Date” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Auction Period” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Auction Procedures” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Auction Rate” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Authenticating Agent” means the Trustee, the Bond Registrar and any agent so designated in and appointed pursuant to Section 2.06 each of which shall be a transfer agent registered in accordance with Section 17A(c) of the Securities Exchange Act of 1934, as amended.

“Authorized Denomination” means (i) if the Interest Rate Mode is the Daily Rate or the Weekly Rate, a minimum denomination of \$100,000 and any integral multiple thereof; (ii) if the Interest Rate Mode is the Flexible Rate, a minimum denomination of \$100,000 and integral multiples of \$5,000 in excess of such minimum denomination; (iii) if the Interest Rate Mode is the Semi-Annual Rate, Term Rate or Fixed Rate, a denomination equal to \$5,000 or any integral multiple thereof; and (iv) if the Interest Rate Mode is the ARS Rate, a denomination equal to \$25,000 or any integral multiple thereof.

“Available Bonds” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Beneficial Owner” shall mean the person in whose name a 2005 Series A Bond is recorded as the beneficial owner thereof by the respective systems of DTC and each of the DTC Participants, or the Registered Holder of such 2005 Series A Bond if such 2005 Series A Bond is not then registered in the name of CEDE & Co.

“Bid” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Bidder” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Bond Counsel” means an attorney or firm of attorneys of nationally recognized standing in the field of law relating to municipal bonds and municipal finance, reasonably acceptable to Company.

“Bond Fund” means the fund so designated which is established pursuant to Section 6.02 hereof.

“Bond Register” and “Bond Registrar” shall have the respective meanings specified in Section 2.03. “Principal Office” of the Bond Registrar means the office or offices designated as such in writing to Issuer, Trustee, the Paying Agent, the Tender Agent, the Remarketing Agents and Company provided that if the Trustee is also the Bond Registrar, “Principal Office” shall mean the principal corporate trust office of the Trustee.

“Bond Year” means, during the period while 2005 Series A Bonds remain outstanding, the annual period provided for the computation of Excess Earnings under Section 148(f)(2) of the Code.

“Book-Entry System” shall mean the system in which the 2005 Series A Bonds (represented by one certificate for each maturity) are delivered into the possession of DTC and are issued and fully registered as to principal and interest in the name of CEDE & Co. and whereby beneficial interests in such 2005 Series A Bonds are purchased by investors through DTC Participants, such interests shown and transfers thereof effected only through the records maintained by the respective DTC Participants from whom each Beneficial Owner acquired its interest.

“Broker-Dealer” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Broker-Dealer Agreement” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Business Day” means any day other than a Saturday or Sunday or legal holiday or a day on which banking institutions located in the City of New York, New York, or the New York Stock Exchange or banking institutions in the city in which the principal office of the Trustee, the Bond Registrar, the Tender Agent, the Paying Agent, the Auction Agent, the Company or the Remarketing Agents are located are authorized by law or executive order to close.

“CEDE & Co.” shall mean CEDE & Co., as nominee of DTC, and any successor nominee of DTC substituted in accordance with Section 2.01(d) hereof.

“Code” means the United States Internal Revenue Code of 1986, as amended. Each reference to a Section of the Code herein shall be deemed to include the United States Treasury regulations, including temporary and proposed regulations, relating to such Section which are applicable to the 2005 Series A Bonds or the use of the proceeds thereof.

“Company” means Louisville Gas and Electric Company, a Kentucky corporation, and its successors and assigns, including any surviving, resulting or transferee corporation.

“Company Bonds” means 2005 Series A Bonds held for remarketing which were tendered for purchase by the Registered Owners thereof pursuant to Section 3.01(a) or (b) hereof and that were purchased from moneys received by the Tender Agent pursuant to a demand for payment from Company.

“Company Representative” means the person or persons at the time designated to act on behalf of Company by written certificate furnished to Issuer, Trustee, Paying Agent and Bond Registrar containing the specimen signature of such person and signed on behalf of Company by the president, any vice president or the treasurer of Company. Such certificate may designate an alternate or alternates. Company Representative may be an employee of Company.

“Computation Period” means the period of time over which Excess Earnings with respect to the 2005 Series A Bonds are required to be computed under Section 148(f) of the Code.

“Continuing Disclosure Agreement” means any Continuing Disclosure Agreement which may be given by the Company in connection with the 2005 Series A Bonds, as may, at the time be legally required, as amended or supplemented from time to time.

“Conversion” means any conversion from time to time in accordance with the terms of this Indenture of the 2005 Series A Bonds from one Interest Rate Mode to another Interest Rate Mode.

“Conversion Date” means the date on which the 2005 Series A Bonds convert from one interest rate period to another interest rate period.



“Cost of Construction” with respect to the Project, shall be deemed to include the following costs which are or have been either (i) charged, or (ii) with or but for a proper election may be or could have been charged, by Company to a capital account:

(i) obligations of Company incurred for labor, property, and materials (including reimbursements payable to Company and payments on contracts in the name of Company) in connection with the acquisition, construction, installation and equipping of the Project (including capitalization of interest on bonds, if any, and interest costs incurred in respect of any interim financing of the Project), together with allowances permitted by the Code in connection with the acquisition, construction and installation of the Project;

(ii) the cost of contract bonds and of insurance of all kinds that may be necessary or desirable during the course of construction, acquisition and installation of the Project;

(iii) all costs of engineering services, including the costs of Company for test borings, surveys, estimates, plans and specifications and preliminary investigation therefor, and for supervising construction, as well as for the performance of all other duties required by or consequent upon the proper construction of the Project;

(iv) allowable costs and expenses incurred in connection with the issuance and sale of the original issue of bonds which financed the Project, including, without limitation, compensation and expenses of trustee under the 1995 Series A Indenture, legal expenses and fees, financial advisory fees, underwriting fees and compensation, printing, engraving and photocopying costs and recording and filing fees;

(v) all other costs which Company has paid or shall be required to pay, under the terms of any contract or contracts, for the acquisition, construction, installation or equipping of the Project;

(vi) any sums required to reimburse Issuer or Company for advances made by either of them for any of the above items, including sales taxes and other taxes and fees, or for any other costs incurred for work done by either of them which are properly chargeable to the Project; and

(vii) to the extent authorized by the Act, all other items related to the acquisition, construction, installation and equipping of the Project, the costs of which are, or with a proper election by the Company, may be, or could have been, carried to a capital account on the books of the Company.

“Cumulative Excess Earnings” means the amount of all Excess Earnings earned from the date of the original delivery of the 2005 Series A Bonds through the end of the relevant Computation Period, less the amount of any Excess Earnings previously paid to the United States pursuant to Section 6.06 hereof.

“Daily Rate” means the Interest Rate Mode for the 2005 Series A Bonds in which the interest rate on the 2005 Series A Bonds is determined on each such Business Day in accordance with Section 2.02(c)(ii).

“Daily Rate Period” means the period beginning on and including the Conversion Date to the Daily Rate and ending on and including the day preceding the next Business Day and each period thereafter beginning on and including a Business Day and ending on and including the day preceding the next succeeding Business Day until the day preceding the earlier of the Conversion to a different Interest Rate Mode or the maturity of the 2005 Series A Bonds.

“Date of the Bonds” means April 13, 2005.

“Default” and “event of default” mean any occurrence or event specified in Section 9.01 of this Indenture.

“Delivery” or “deliver” shall mean, when used with respect to the 2005 Series A Bonds held in the Book-Entry System pursuant to Section 2.01(d), the making of or the irrevocable authorization to make appropriate entries on the books of DTC.

“Designated Office” of the Trustee means the designated office of the Trustee, which office at the date of acceptance by the Trustee of the duties and obligations imposed on the Trustee by this Indenture is located in Summit, New Jersey.

“Determination of Taxability” shall have the meaning ascribed to such term in the Agreement.

“DTC” shall mean The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, and its successors and assigns (in each case, which shall be a qualified and registered “clearing agency” under Section 17A of the Securities Exchange Act of 1934, as amended).

“DTC Participants” shall mean trust companies, banks, brokers, dealers, clearing corporations, and certain other organizations that are direct or indirect participants or members of DTC, or if DTC or its successor or assign resigns from its functions as depository for the 2005 Series A Bonds, any other securities depository which agrees to follow the procedures required to be followed by a securities depository in connection with the 2005 Series A Bonds and which is selected by the Issuer, at the direction of the Company.

“Electronic Notice” means notice transmitted through a time-sharing terminal, if operative as between any two parties, or if not operative, in writing, by facsimile transmission or by telephone (promptly confirmed in writing or by facsimile transmission).

“Excess Earnings” means, with respect to the 2005 Series A Bonds, an amount equal to the sum of (i) plus (ii) where:

(i) is the excess of

(a) the aggregate amount earned on all nonpurpose investments in which gross proceeds of the 2005 Series A Bonds are invested (other than investments attributable to an excess described in this clause (i)), over

(b) the amount which would have been earned if such nonpurpose investments (other than amounts attributable to an excess described in this clause (i)) were invested at a rate equal to the yield on the 2005 Series A Bonds; and

(ii) any income attributable to the excess described in clause (i).

The sum of (i) plus (ii) shall be determined in accordance with Sections 148(f)(2) and 148(f)(4) of the Code and in accordance with the provisions of applicable Treasury Regulations. As used herein, the terms “gross proceeds,” “nonpurpose investment” and “yield” have the meanings assigned to them for purposes of Section 148(f)(6) of the Code and applicable federal income tax regulations.

“Existing Owner” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Failure to Deposit” means any failure to make the deposits required by Section 2.16 by the time specified therein.

“Fixed Rate” means the Interest Rate Mode for the 2005 Series A Bonds in which the interest rate on the 2005 Series A Bonds is determined in accordance with Section 2.02(c)(vi).

“Fixed Rate Period” means any period established by Company pursuant to Section 2.02(d)(i) or (ii) and beginning on, and including, the Conversion Date to the Fixed Rate and ending on, and including, the day preceding the last Interest Payment Date for such period and, thereafter, each successive period of the same duration as that established period until the day ending on and preceding the earliest of the change to a different Fixed Rate Period, the Conversion to a different Interest Rate Mode or the maturity of the 2005 Series A Bonds.

“Flexible Rate” means the Interest Rate Mode for the 2005 Series A Bonds in which the interest rate for each 2005 Series A Bond is determined with respect to such 2005 Series A Bond as provided in Section 2.02(c)(i)(A).

“Flexible Rate Period” means with respect to any 2005 Series A Bond, each period (which may be from 1 day to 364 days (or such lower maximum number of days as is then permitted hereunder)) determined for such 2005 Series A Bond as provided in Section 2.02(c)(i)(B).

“Governmental Obligations” (a) when used in reference to the Refunded 1995 Series A Bonds, has the meaning ascribed to such term in ARTICLE VIII of the 1995 Series A Indenture

and (b) when used in reference to the 2005 Series A Bonds, has the meaning ascribed to such term in ARTICLE VIII of this Indenture.

“Hold Order” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Indenture” or “Indenture of Trust” means this Indenture of Trust, including any indenture supplemental or amendatory hereto.

“Initial Period” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Interest Payment Date” means (a) (i) if the Interest Rate Mode is the Daily Rate or the Weekly Rate, the first Business Day of each calendar month, (ii) if the Interest Rate Mode is the Flexible Rate, the last day of each Flexible Rate Period for the applicable 2005 Series A Bond (or if such last day is not a Business Day, the next succeeding Business Day) and (iii) if the Interest Rate Mode is the Semi-Annual Rate, the Term Rate or the Fixed Rate, February 1 and August 1, and in the case of the Fixed Rate, also the Conversion Date or the effective date of a change to a new Fixed Rate Period; and (b) when used with respect to 2005 Series A Bonds bearing interest at an ARS Rate, shall be governed by the provisions of Exhibit D; and (c) with respect to any 2005 Series A Bond, the Conversion Date (including the date of a failed Conversion) or the effective date of a change to a new Fixed Rate Period for such 2005 Series A Bond. In any case, the final Interest Payment Date shall be the maturity date.

“Interest Period” means, for all 2005 Series A Bonds (or any 2005 Series A Bond if the Interest Rate Mode is the Flexible Rate) the period from and including each Interest Payment Date to and including the day immediately preceding the next Interest Payment Date; provided, however, that the first Interest Period for any 2005 Series A Bond shall begin on (and include) the Date of the 2005 Series A Bonds and the final Interest Period shall end the day next preceding the maturity date of the 2005 Series A Bonds.

“Interest Rate Mode” means the Flexible Rate, the Daily Rate, the ARS Rate, the Weekly Rate, the Semi-Annual Rate, the Term Rate and the Fixed Rate.

“Issuer” means the Louisville/Jefferson County Metro Government, Kentucky, a public body corporate and politic duly created and existing as a de jure political subdivision under the Constitution and laws of the Commonwealth of Kentucky and the governmental successor to the County of Jefferson, Kentucky, issuer of the Refunded 1995 Series A Bonds.

“Issuer Representative” means the person or persons at the time designated to act on behalf of Issuer by written certificate furnished to Company, Trustee, Paying Agent and Bond Registrar containing the specimen signature of such person and signed on behalf of Issuer by the Mayor of Issuer. Such certificate may designate an alternate or alternates. Issuer Representative may be an employee of Issuer.

“Letter Of Representations” shall mean, in respect of the 2005 Series A Bonds issued under the Book-Entry System, the letter or document dated the date of issuance of such series of Bonds, from the Trustee and the Issuer to DTC, substantially in the form as attached hereto as

Exhibit B, including any amendments thereto as shall be agreed upon from time to time by the Trustee, the Issuer and DTC.

“LIBOR” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Loan” means the loan by Issuer to Company of the proceeds from the sale of the 2005 Series A Bonds, excluding any accrued interest to be paid by the initial purchasers of the 2005 Series A Bonds, pursuant to the Agreement.

“Maximum Interest Rate” shall mean the lesser of 14% or the maximum rate permitted by applicable law.

“Moody's” means Moody's Investors Service, Inc., a Delaware corporation, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Company, with the consent of the Issuer. All notices to Moody's shall be sent to 99 Church Street, New York, New York 10007, or to such other address as designated in writing by Moody's to the Trustee.

“Municipal Index” means The Bond Market Association Municipal Swap Index™ as of the most recent date for which such index was published or such other weekly, high-grade index comprised of seven-day, tax-exempt variable rate demand notes produced by Municipal Market Data, Inc., or its successor, or otherwise designated by The Bond Market Association; provided, however, that, if such index is no longer provided by Municipal Market Data, Inc. or its successor, the "Municipal Index" shall mean such other reasonably comparable index selected by the Remarketing Agents.

“Net Proceeds,” when used with respect to any insurance proceeds or any condemnation award, means the amount remaining after deducting all expenses (including attorneys' fees) incurred in the collection of such proceeds or award from the gross proceeds thereof.

“Order” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Original Bonds” shall have the meaning ascribed to such term in the Agreement.

“Outstanding” or “Bonds outstanding” or “Bonds then outstanding” means, as of the time in question, all 2005 Series A Bonds which have been authenticated and delivered by Trustee under this Indenture, except:

(i) 2005 Series A Bonds theretofore cancelled or delivered to the Trustee for cancellation or required to be cancelled pursuant to Section 2.11 hereof.

(ii) On or after any Purchase Date for 2005 Series A Bonds pursuant to ARTICLE III hereof, all 2005 Series A Bonds (or portions of 2005 Series A Bonds) which are tendered or deemed to have been tendered for purchase on such date, but which

have not been delivered to the Tender Agent, provided that funds sufficient for such purchase are on deposit with the Tender Agent in accordance with the provisions hereof;

(iii) 2005 Series A Bonds for the payment or redemption of which the necessary amount shall have been theretofore or shall be concurrently deposited with Trustee (whether upon or prior to the maturity or redemption date of any such 2005 Series A Bonds) or for which provision for payment shall have been made in accordance with ARTICLE VIII of this Indenture; provided, that, if such 2005 Series A Bonds are to be redeemed prior to the maturity thereof, irrevocable notice of such redemption shall have been given or arrangements satisfactory to Trustee shall have been made therefor, or waiver of such notice satisfactory in form to Trustee shall have been filed with Trustee; and

(iv) 2005 Series A Bonds paid pursuant to Section 2.09 hereof and 2005 Series A Bonds in lieu of which other 2005 Series A Bonds have been authenticated and delivered under Section 2.09 or Section 2.10 of this Indenture, unless proof satisfactory to Trustee is presented that such 2005 Series A Bonds are held by a bona fide purchaser (as such term is defined in the Kentucky Uniform Commercial Code).

In determining whether the owners of a requisite aggregate principal amount of 2005 Series A Bonds have concurred in any request, demand, authorization, direction, notice, consent or waiver under the provisions hereof, 2005 Series A Bonds which are held by or on behalf of the Company or any Affiliate (unless all of the Outstanding 2005 Series A Bonds, other than Company Bonds, are then owned by the Company or any Affiliate) shall be disregarded for the purpose of any such determination; provided that only those 2005 Series A Bonds which a responsible officer of the Trustee actually knows to be so held shall be so disregarded and provided further that 2005 Series A Bonds delivered to the Tender Agent pursuant to Section 3.04(a)(ii) shall not be so disregarded.

“Paying Agent” or “Co-Paying Agent” means any bank or trust company designated pursuant to this Indenture to serve as Paying Agent or Co-Paying Agent for the 2005 Series A Bonds, and any successors designated pursuant to this Indenture. “Principal Office” of any Paying Agent shall mean the office thereof designated in writing to the Bond Registrar, Trustee and Company provided that if the Trustee is also Paying Agent “Principal Office” shall mean the principal corporate trust office of the Trustee.

“Permitted Investments” shall mean and include the following:

(A) The following shall be Permitted Investments for all purposes, including defeasance investments in refunding escrow accounts:

(i) Cash (insured at all times by the Federal Deposit Insurance Corporation),

(ii) Obligations of, or obligations guaranteed as to principal and interest by, the U.S. or any agency or instrumentality thereof, when such obligations are backed by the full faith and credit of the U.S. including:

(a) U.S. treasury obligations

- (b) All direct or fully guaranteed obligations
- (c) Farmers Home Administration
- (d) General Services Administration
- (e) Guaranteed Title XI financing
- (f) Government National Mortgage Association (GNMA)
- (g) State and Local Government Series

Any security used for defeasance must provide for the timely payment of principal and interest and cannot be callable or prepayable prior to maturity or earlier redemption of the rated debt (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date).

(B) The following shall be Permitted Investments for all purposes other than defeasance investments in refunding escrow accounts.

(i) Obligations of any of the following federal agencies which obligations represent the full faith and credit of the United States of America, including:

- (a) Export-Import Bank
- (b) Rural Economic Community Development Administration
- (c) U.S. Maritime Administration
- (d) Small Business Administration
- (e) U.S. Department of Housing & Urban Development (PHAs)
- (f) Federal Housing Administration
- (g) Federal Financing Bank

(ii) Direct obligations of any of the following federal agencies which obligations are not fully guaranteed by the full faith and credit of the United States of America:

- (a) Senior debt obligations issued by the Federal National Mortgage Association (FNMA) or Federal Home Loan Mortgage Corporation (FHLMC).
- (b) Obligations of the Resolution Funding Corporation (REFCORP)
- (c) Senior debt obligations of the Federal Home Loan Bank System

(iii) U.S. dollar denominated deposit accounts, federal funds and bankers' acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of "P-1" by Moody's and "A-1" or "A-1+" by S&P and maturing not more than 360 calendar days after the date of purchase. (Ratings on holding companies are not considered as the rating of the bank);

(iv) Commercial paper which is rated at the time of purchase in the single highest classification, "P-1" by Moody's and "A-1+" by S&P and which matures not more than 270 calendar days after the date of purchase;

(v) Investments in a money market fund rated "AAAm" or "AAAm-G" or better by S&P;

(vi) Pre-refunded Municipal Obligations defined as follows: any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and

(a) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of Moody's or S&P or any successors thereto; or

(b) (i) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph A(2) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate.

(vii) Municipal Obligations rated "Aaa/AAA" or general obligations of States with a rating of "A2/A" or higher by both Moody's and S&P.

(C) The value of the above investments shall be determined as follows:

(i) For the purpose of determining the amount in any fund, all Permitted Investments credited to such fund shall be valued at fair market value. The Trustee shall determine the fair market value based on accepted industry standards and from accepted industry providers. Accepted industry providers shall include but are not limited to pricing services provided by Financial Times Interactive Data Corporation, Merrill Lynch, Salomon Smith Barney, Bear Stearns, or Lehman Brothers.



(ii) As to certificates of deposit and bankers' acceptances: the face amount thereof, plus accrued interest thereon; and

(iii) As to any investment not specified above: the value thereof established by prior agreement among the Issuer and the Trustee.

"Person" or words importing persons means firms, associations, partnerships (including without limitation, general and limited partnerships), societies, estates, trusts, corporations, public or governmental bodies, other legal entities and natural persons.

"Plans and Specifications" means the plans and specifications for the Project on file with the trustee in respect of the original issue of bonds which financed the Project.

"Pollution Control Facilities" means pollution control facilities as that term is defined in the Act.

"Potential Owner" shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

"Prevailing Market Conditions" means, without limitation, the following factors: existing short-term or long-term market rates for securities, the interest on which is excluded from gross income for federal income tax purposes; indexes of such short-term or long-term rates and the existing market supply and demand for securities bearing such short-term or long-term rates; existing yield curves for short-term or long-term securities for obligations of credit quality comparable to the 2005 Series A Bonds, the interest on which is excluded from gross income for federal income tax purposes; general economic conditions; industry economic and financial conditions that may affect or be relevant to the 2005 Series A Bonds; and such other facts, circumstances and conditions as the Remarketing Agents, in their sole discretion, shall determine to be relevant.

"Principal Office" shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

"Prior Bond Fund" shall have the meaning ascribed to such term in the Agreement.

"Prior Trustee" shall have the meaning ascribed to such term in the Agreement.

"Project" means the Pollution Control Facilities constructed to serve the Mill Creek and Cane Run Generating Stations of the Company, located within the corporate boundaries of the Issuer, consisting of certain air pollution control facilities described in Exhibit A hereto (including any land incident thereto) which have been acquired, constructed, installed and equipped by the Company for operation as Pollution Control Facilities for air pollution control purposes.

"Project Site" means, collectively, the Mill Creek and Cane Run Generating Stations of Company located within the corporate boundaries of Issuer.

“Purchase Date” means (i) if the Interest Rate Mode is the Daily Rate or the Weekly Rate, any Business Day as set forth in Section 3.01(a)(i) and (ii) hereof, respectively, (ii) if the Interest Rate Mode is the Semi-Annual Rate, any Interest Payment Date as set forth in Section 3.01(a)(iii), (iii) if the Interest Rate Mode is the Term Rate or the Fixed Rate, the final Interest Payment Date for each Term Rate Period and Fixed Rate Period as set forth in Section 3.01(a)(iv) and (v) hereof, respectively, and (iv) each day that 2005 Series A Bonds are subject to mandatory purchase pursuant to Section 3.01(b); provided, however, that the date of the stated maturity of the 2005 Series A Bonds shall not be a Purchase Date.

“Purchase Fund” means the fund so designated which is established pursuant to Section 3.03 hereof.

“Rate Period” means, with respect to any 2005 Series A Bond, any period during which a single interest rate is in effect for such 2005 Series A Bond.

“Rating Service” means (a) Moody's Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns, and (b) Standard & Poor's Ratings Services, a corporation organized and existing under the laws of the State of New York, and its successors and assigns; provided, however, that if either such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Rating Service” shall be deemed to refer to any other nationally recognized securities rating agency designated in writing by Company to Issuer, Trustee and Remarketing Agents.

“Rebate Fund” means the fund created by Section 6.06 of this Indenture.

“Record Date” means, as the case may be, the applicable Regular Record Date or Special Record Date. While the 2005 Series A Bonds bear interest at the ARS Rate, the Record Date will be the Business Day immediately preceding an Interest Payment Date.

“Redemption Date” shall mean the last day on which the Refunded 1995 Series A Bonds are scheduled for redemption, payment and discharge in accordance with the 1995 Series A Indenture.

“Refunded 1995 Series A Bonds” means the \$40,000,000 outstanding “County of Jefferson, Kentucky, Pollution Control Revenue Bonds, 1995 Series A (Louisville Gas and Electric Company Project)”, dated April 15, 1995, issued pursuant to the 1995 Series A Indenture.

“Registered Owner” or “Bondholder” or “Owner” or “Holder” (when used in reference to the 2005 Series A Bonds) means the person or persons in whose name or names a 2005 Series A Bond shall be registered on the books of Issuer maintained by the Bond Registrar in accordance with the terms of this Indenture.

“Regular Record Date” means (a) with respect to any Interest Period during which the Interest Rate Mode is the Daily Rate or the Weekly Rate, the close of business on the last Business Day of such Interest Period, (b) with respect to any Interest Period during which the Interest Rate Mode is the ARS Rate, the Business Day immediately preceding an Interest Payment Date for such Interest Period, and (c) with respect to any Interest Period during which

the Interest Rate Mode is the Flexible Rate, the Semi-Annual Rate, the Term Rate or the Fixed Rate, the 15th day (whether or not a Business Day) of the calendar month next preceding each Interest Payment Date for such Interest Period.

“Remarketing Agents” means Goldman, Sachs & Co. and UBS Financial Services Inc. and their successor or successors as provided in, and any other Remarketing Agent appointed pursuant to Section 11.01. “Principal Office” of the Remarketing Agents means the office or offices designated by each Remarketing Agent as such in writing to Issuer, Trustee, the Bond Registrar, the Paying Agent, the Tender Agent and Company.

“Remarketing Agreement” means the Remarketing Agreement between Company and the Remarketing Agents, as the same may be amended from time to time, and any remarketing agreement between Company and a successor or additional Remarketing Agent.

“Responsible Officer” means when used with respect to the Trustee, any managing director, director, vice president, assistant vice president, associate or any other officer within the corporate trust department of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also shall mean, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge and familiarity with the particular subject.

“S&P” means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies and its successors and assigns, and, if such division shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Company, with the consent of the Issuer. All notices to S&P shall be sent to 55 Water Street, New York, New York 10041, or to such other address as designated in writing by S&P to the Trustee.

“Securities Depository” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Sell Order” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Semi-Annual Rate” means the Interest Rate Mode for the 2005 Series A Bonds in which the interest rate on the 2005 Series A Bonds is determined in accordance with Section 2.02(c)(iv).

“Semi-Annual Rate Period” means any period beginning on, and including, the Conversion Date to the Semi-Annual Rate and ending on, and including, the day preceding the first Interest Payment Date thereafter and each successive six (6) month period thereafter beginning on and including an Interest Payment Date and ending on and including the day next preceding the next Interest Payment Date until the day preceding the earlier of the Conversion to a different Interest Rate Mode or the maturity of the 2005 Series A Bonds.

“2005 Series A Bonds” means the \$40,000,000 principal amount of bonds designated as “Louisville/Jefferson County Metro Government, Kentucky, Pollution Control Revenue Bonds, 2005 Series A (Louisville Gas and Electric Company Project),” dated the Date of the Bonds, or

such other date as shall be jointly determined by the Company and the Issuer, or as determined by or pursuant to this Indenture and to be originally issued pursuant to Section 2.01 of this Indenture.

“1995 Series A Indenture” means the Indenture of Trust dated as of October 15, 1993, by and between Issuer and Liberty National Bank and Trust Company of Kentucky (now known as J.P. Morgan Trust Company, N.A.), as Prior Trustee, paying agent and bond registrar pursuant to which the Refunded 1995 Series A Bonds have been issued.

“Special Auction Period” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Special Payment Date” shall have the meaning ascribed to such term in Section 2.07.

“Special Record Date” means such nonregular date as may be fixed for the payment of Defaulted Interest, as defined in and in accordance with Section 2.07.

“Submission Deadline” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Submitted Bid” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Submitted Hold Order” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Submitted Order” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Submitted Sell Order” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Sufficient Clearing Bids” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

“Term Rate” means the Interest Rate Mode for the 2005 Series A Bonds in which the interest rate on the 2005 Series A Bonds is determined annually in accordance with Section 2.02(c)(v).

“Term Rate Period” means the period beginning on, and including, the Conversion Date to the Term Rate and ending on, and including, the day next preceding the second Interest Payment Date thereafter, and each successive twelve (12) month period (or portion thereof) thereafter until the day preceding the earlier of the Conversion to a different Interest Rate Mode or the maturity of the 2005 Series A Bonds.

“Tender Agent” means the initial and any successor tender agent appointed in accordance with Section 11.02 hereof. “Principal Office” of the Tender Agent means the office thereof designated as such in writing to Issuer, Trustee, the Bond Registrar, the Paying Agent, Company

and the Remarketing Agents, provided that if the Trustee is also the Tender Agent, “Principal Office” shall mean the principal corporate trust office of the Trustee.

“Trustee” means the Trustee at the time serving as such under this Indenture.

“Trust Estate” means the property conveyed to Trustee pursuant to the granting clauses of this Indenture.

“Variable Rate” means collectively, each Daily Rate, Weekly Rate, Semi-Annual Rate and Term Rate.

“Variable Rate Period” means collectively, each Daily Rate Period, Weekly Rate Period, Semi-Annual Rate Period and Term Rate Period.

“Weekly Rate” means the Interest Rate Mode for the 2005 Series A Bonds in which the interest rate on the 2005 Series A Bonds is determined in accordance with Section 2.02(c)(iii).

“Weekly Rate Period” means the period beginning on, and including, the Conversion Date to the Weekly Rate, and ending on, and including, the next Tuesday and thereafter the period beginning on, and including, any Wednesday and ending on, and including, the earliest of the next Tuesday, the day preceding the Conversion to a different Interest Rate Mode or the maturity of the 2005 Series A Bonds.

“Winning Bid Rate” shall have the detailed meaning ascribed to such term in Exhibit D (ARS Provisions).

The words “hereof”, “herein”, “hereto”, “hereby” and “hereunder” (except in the form of 2005 Series A Bond) refer to this entire Indenture. Unless otherwise noted, all Section and Article references are to sections and articles in this Indenture.

## ARTICLE II

### **AUTHORIZATION AND ISSUANCE OF 2005 SERIES A BONDS**

Section 2.01. Authorization for Indenture; Indenture to Constitute Contract; Amount, Terms and Issuance of 2005 Series A Bonds; Book-Entry System.

(a) This Indenture is adopted pursuant to the Act. In consideration of the purchase and acceptance of the 2005 Series A Bonds by those who shall purchase and hold the same from time to time, the provisions of this Indenture shall be a part of the contract of Issuer with the holders of the 2005 Series A Bonds, and shall be deemed to be and shall constitute a contract between Issuer, Trustee and the holders from time to time of the 2005 Series A Bonds, and such provisions are covenants and agreements with such holders which Issuer hereby determines to be necessary and desirable for the security and payment thereof. The provisions, covenants and agreements herein set forth to be performed on behalf of Issuer shall be for the equal and ratable benefit, protection and security of the holders of any and all of the 2005 Series A Bonds, all of which, regardless of the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction of any of the 2005 Series A Bonds over any other

thereof. No 2005 Series A Bonds may be issued under the provisions of this Indenture except in accordance with this Article.

(b) The 2005 Series A Bonds shall be issued in order to refund, pay and discharge the Refunded 1995 Series A Bonds on the date of issuance of the 2005 Series A Bonds. The 2005 Series A Bonds shall be designated “Louisville/Jefferson County Metro Government, Kentucky, Pollution Control Revenue Bonds, 2005 Series A (Louisville Gas and Electric Company Project),” and are hereby authorized to be issued in the aggregate principal amount of \$40,000,000, only as fully registered bonds without coupons in Authorized Denominations. Unless Issuer shall otherwise direct, 2005 Series A Bonds shall be lettered “R” and shall be numbered separately from 1 upward in such manner as Trustee shall determine.

(c) The 2005 Series A Bonds shall be issued in the Book-Entry System, as provided in clause (d) of this Section 2.01.

(d) So long as any of the 2005 Series A Bonds are held in the Book-Entry System:

(i) The Registered Owner of such 2005 Series A Bonds shall be DTC, and such 2005 Series A Bonds shall be registered in the name of CEDE & Co., as nominee for DTC. The provisions of the Letter of Representations shall be and are hereby incorporated herein by reference and, in the event that there shall be any inconsistency between the Letter of Representations and this Indenture, so long as such 2005 Series A Bonds are held in the Book-Entry System, the Letter of Representations shall govern.

(ii) The 2005 Series A Bonds shall be initially issued in the Book-Entry System, as a single fully registered certificate representing each maturity of principal, in accordance with the Letter of Representations. Upon initial issuance, the ownership of such 2005 Series A Bonds shall be registered in the registry books of the Issuer maintained by the Trustee in the name of CEDE & Co., as nominee for DTC. So long as such 2005 Series A Bonds are held in the Book-Entry System, the Trustee and the Company shall treat DTC (or its nominee) as the sole and exclusive Registered Owner of such 2005 Series A Bonds registered in its name for the purposes of: (i) payment of the principal or redemption price of or interest on such 2005 Series A Bonds, (ii) selecting such 2005 Series A Bonds or portions thereof to be redeemed, (iii) giving any notice permitted or required to be given to Bondholders, (iv) registering the transfer of such 2005 Series A Bonds, and (v) obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever; and the Trustee and the Company shall not be affected by any notice to the contrary. The Trustee, Issuer and the Company shall have no liability, responsibility or obligation to any DTC Participant, any Beneficial Owner or any person claiming to be a Beneficial Owner, or any other person which is not shown on the registration books of the Trustee as being a Registered Owner with respect to: the accuracy of or any other aspect relating to any records maintained by DTC or any DTC Participant of any amount in respect of the principal or redemption or purchase price of or interest on any such 2005 Series A Bonds; any notice which is permitted or required to be given to 2005 Series A Bondholders once such notice is given to DTC, as 2005 Series A Bondholder; the selection by DTC or any DTC Participant of any person to receive payment in the event of a partial redemption of any such 2005 Series A Bonds;

or any consent given or other action taken by DTC as 2005 Series A Bondholder. In order to effect permissive purchase of 2005 Series A Bonds pursuant to this Indenture, Beneficial Owners must act only through their DTC Participants and the Issuer, the Trustee and the Company will have no responsibility therefor whatsoever.

(iii) So long as the 2005 Series A Bonds are held in the Book-Entry System, the Trustee shall pay all principal of and premium, if any, and interest on such 2005 Series A Bonds only to or “upon the order of” DTC (as that term is used in the Uniform Commercial Code as adopted in the Commonwealth of Kentucky), and all such payments shall be valid and effective to fully satisfy and discharge the Company's obligation with respect to the principal of and premium, if any, and interest on such 2005 Series A Bonds to the extent of the sum or sums so paid. Transfer or crediting of the applicable principal, interest or redemption premium payments made by the Trustee to DTC and by DTC to DTC Participants shall be the sole responsibility of DTC, and transfer of same to Beneficial Owners or their nominees shall be the sole responsibility of DTC and the DTC Participants. So long as any such 2005 Series A Bonds are held in the Book-Entry System, no person other than DTC shall receive an authenticated 2005 Series A Bond certificate.

(iv) Upon delivery by DTC to the Trustee of DTC's written notice to the effect that DTC has determined to substitute a new nominee in place of CEDE & Co., and subject to the provisions of the Indenture with respect to transfer of the 2005 Series A Bonds, the term “CEDE & Co.” in this Indenture shall refer to such new nominee of DTC.

(v) Except with respect to the ARS Rate (in which case the provisions in Exhibit D hereof shall control), at any time, upon thirty (30) days written notice to the Trustee and the Issuer, the Company may terminate the Book-Entry System in respect of any series of Bonds, in which event (i) the Company shall notify DTC and the Trustee, and shall instruct DTC to notify the DTC Participants, of the availability through DTC of 2005 Series A Bond certificates and (ii) the Trustee shall issue, transfer and exchange, at the Company's expense, 2005 Series A Bond certificates as requested in writing by DTC in appropriate amounts.

(vi) Except with respect to the ARS Rate (in which case the provisions in Exhibit D hereof shall control), at any time, upon thirty (30) days written notice to the Trustee and the Issuer, DTC may determine to discontinue providing its services with respect to the 2005 Series A Bonds by giving written notice to the Company and the Trustee in accordance with the Letter of Representations and discharging its responsibilities under applicable law with respect to such 2005 Series A Bonds. Under such circumstances (unless a successor to DTC which is reasonably acceptable to the Trustee has been appointed to act as securities depository hereunder), the Company and the Trustee shall be obligated to deliver 2005 Series A Bond certificates as described in this Indenture.

Section 2.02. Maturity and Computation of Interest.

(a) Designation, Denominations and Maturity. The 2005 Series A Bonds shall be issuable only in Authorized Denominations.

The 2005 Series A Bonds shall be dated as of and shall accrue interest from, their initial date of issuance. Each 2005 Series A Bond shall bear interest from the last Interest Payment Date to which interest has accrued and has been paid or duly provided for, or if no interest has been paid or duly provided for, from the date of the 2005 Series A Bonds, until payment of the principal or redemption price thereof shall have been made or provided for in accordance with the provisions of this Indenture, whether upon maturity, redemption or otherwise.

The 2005 Series A Bonds shall mature on February 1, 2035.

(b) Interest Rates on the 2005 Series A Bonds. Except with respect to the ARS Rate, which shall be governed by the Auction Procedures, as provided in Exhibit D hereof, during each Interest Period for each Interest Rate Mode, the interest rate or rates for the 2005 Series A Bonds shall be determined in accordance with Section 2.02(c) and shall be payable on an Interest Payment Date for such Interest Period; provided that the interest rate or rates borne by the 2005 Series A Bonds shall not exceed the Maximum Interest Rate. Interest on the 2005 Series A Bonds at the interest rate or rates for the Daily Rate, the Weekly Rate and the Flexible Rate shall be computed upon the basis of a 365- or 366-day year, as applicable, based on the year in which the period commences, for the actual number of days elapsed. Interest on the 2005 Series A Bonds at the interest rate or rates for the Semi-Annual Rate, the Term Rate and the Fixed Rate shall be computed upon the basis of a 360-day year, consisting of twelve 30-day months. Interest on the 2005 Series A Bonds at the interest rate or rates for the ARS Rate shall be computed on the basis (i) actual days over 360 if the 2005 Series A Bonds are in an Auction Period of 180 days or less or (ii) a 360 day year of twelve 30-day months if the 2005 Series A Bonds are in an Auction Period which is greater than 180 days.

(c) Interest Rate Modes. The initial Interest Rate Mode for the 2005 Series A Bonds shall be the ARS Rate for an initial ARS Rate Period of seven days commencing as of the Date of the 2005 Series A Bonds; provided that the first Auction shall occur on April 22, 2005 and the first Interest Payment Date is April 25, 2005. The 2005 Series A Bonds shall thereafter remain in that Interest Rate Mode until the Conversion to a different Interest Rate Mode as provided in Section 2.14 and Section 2.15. The 2005 Series A Bonds shall bear interest at the ARS Rate (until Conversion to a different Interest Rate Mode as provided in Section 2.14 and Section 2.15) determined as set forth in Exhibit D hereof.

Pursuant to the mandatory requirements of KRS 103.220(3)(c) the Issuer reserves and retains the right to remove or replace any Remarketing Agent at any time and for any reason whatsoever.

Except for the ARS Rate, which shall be determined in accordance with Exhibit D hereof, interest rates on (and, if the Interest Rate Mode is the Flexible Rate, Flexible Rate Periods for) the 2005 Series A Bonds shall be determined as follows:



## Flexible Rate

- (i) If the Interest Rate Mode for the 2005 Series A Bonds is the Flexible Rate:

(A) The interest rate on a 2005 Series A Bond for a specific Flexible Rate Period shall be the rate established by the Remarketing Agents no later than 12:00 noon (New York City time) on the first day of that Flexible Rate Period as the minimum rate of interest necessary, in the judgment of the Remarketing Agents taking into account then Prevailing Market Conditions, to enable the Remarketing Agents to sell such 2005 Series A Bond on that day at a price equal to the principal amount thereof. Each Flexible Rate Period applicable for a 2005 Series A Bond shall be determined separately by the Remarketing Agents on or prior to the first day of such Flexible Rate Period as being the Flexible Rate Period permitted hereunder which, in the judgment of the Remarketing Agents, taking into account then Prevailing Market Conditions, will, with respect to such 2005 Series A Bond, ultimately produce the lowest overall interest cost on the 2005 Series A Bonds while the Interest Rate Mode is the Flexible Rate; provided that each Flexible Rate Period shall be from one day to 364 days in length and shall end on a day preceding a Business Day. Notwithstanding subsection (B) above:

(1) if Company has previously determined to convert the Interest Rate Mode for the 2005 Series A Bonds from the Flexible Rate, no new Flexible Rate Period for a 2005 Series A Bond shall be established unless the last day of such Flexible Rate Period occurs prior to the Conversion Date;

(2) no Flexible Rate Period may be established after the making of a determination requiring mandatory redemption of all 2005 Series A Bonds pursuant to Section 4.01(a)(i) unless the Remarketing Agents disclose such determination to the purchaser and unless the last day of such Flexible Rate Period occurs prior to the redemption date;

(3) the Flexible Rate Period for any 2005 Series A Bond held by the Tender Agent pursuant to Section 3.04(a)(ii) shall be the period from and including the date of purchase thereof pursuant to Section 3.01 through the day immediately preceding the next Business Day, which period will be re-established automatically until the day preceding the earliest of the Conversion to a different Interest Rate Mode, the maturity of the 2005 Series A Bonds or the sale of such 2005 Series A Bond pursuant to Section 3.02(b), and during such Flexible Rate Period such 2005 Series A Bond shall not bear interest but shall nevertheless remain Outstanding under this Indenture; and

(4) if the Remarketing Agents should fail to set the length of a Flexible Rate Period for any 2005 Series A Bond, a new Flexible Rate Period lasting to, but not including, the next Business Day (or until the

earlier of the Conversion or maturity of the 2005 Series A Bonds) shall be established automatically and, if in that instance the Remarketing Agents fail for whatever reason to determine the interest for such 2005 Series A Bond, then the interest rate for such 2005 Series A Bond for that Flexible Rate Period shall be the interest rate in effect for such 2005 Series A Bond for the preceding Flexible Rate Period.

#### Daily Rate

(ii) If the Interest Rate Mode for the 2005 Series A Bonds is the Daily Rate, the interest rate on the 2005 Series A Bonds for any Business Day shall be the rate established by the Remarketing Agents no later than 9:30 a.m. (New York City time) on each Business Day as the minimum rate of interest necessary, in the judgment of the Remarketing Agents taking into account then Prevailing Market Conditions, to enable the Remarketing Agents to sell the 2005 Series A Bonds on such Business Day at a price equal to the principal amount thereof, plus accrued interest, if any, thereon. For any day which is not a Business Day or if the Remarketing Agents do not give written notice of a change in the interest rate, the interest rate on the 2005 Series A Bonds shall be the interest rate in effect for the immediately preceding Business Day.

#### Weekly Rate

(iii) If the Interest Rate Mode for the 2005 Series A Bonds is the Weekly Rate, the interest rate on the 2005 Series A Bonds for a particular Weekly Rate Period shall be the rate established by the Remarketing Agents no later than 4:00 p.m. (New York City time) on the day immediately preceding the first day of such Weekly Rate Period, or, if such day is not a Business Day, on the next preceding Business Day, as the minimum rate of interest necessary, in the judgment of the Remarketing Agents taking into account then Prevailing Market Conditions, to enable the Remarketing Agents to sell the 2005 Series A Bonds on such day at a price equal to the principal amount thereof, plus accrued interest, if any, thereon.

#### Semi-Annual Rate

(iv) If the Interest Rate Mode for the 2005 Series A Bonds is the Semi-Annual Rate, the interest rate on the 2005 Series A Bonds for a particular Semi-Annual Rate Period shall be the rate established by the Remarketing Agents no later than 2:00 p.m. (New York City time) on the Business Day preceding the first day of such Semi-Annual Rate Period as the minimum rate of interest necessary, in the judgment of the Remarketing Agents taking into account then Prevailing Market Conditions, to enable the Remarketing Agents to sell the 2005 Series A Bonds on such first day at a price equal to the principal amount thereof.

#### Term Rate

(v) If the Interest Rate Mode for the 2005 Series A Bonds is the Term Rate, the interest rate on the 2005 Series A Bonds for a particular Term Rate Period shall be the rate of interest established by the Remarketing Agents no later than 12:00 noon (New

York City time) on the Business Day preceding the first day of such Term Rate Period as the minimum rate of interest necessary, in the judgment of the Remarketing Agents taking into account then Prevailing Market Conditions, to enable the Remarketing Agents to sell the 2005 Series A Bonds on such first day at a price equal to the principal amount thereof.

#### Fixed Rate

(vi) If the Interest Rate Mode for the 2005 Series A Bonds is the Fixed Rate, the interest rate on the 2005 Series A Bonds for a particular Fixed Rate Period shall be the rate established by the Remarketing Agents no later than 12:00 noon (New York City time) on the Business Day preceding the first day of such Fixed Rate Period as the minimum rate of interest necessary, in the judgment of the Remarketing Agents taking into account then Prevailing Market Conditions, to enable the Remarketing Agents to sell the 2005 Series A Bonds on such first day at a price equal to the principal amount thereof.

#### Notice

(vii) The Remarketing Agents shall provide the Tender Agent and the Bond Registrar with Electronic Notice of each interest rate determined and, in addition, if the Interest Rate Mode for the 2005 Series A Bonds is the Flexible Rate, all Flexible Rate Periods, in each case, by the times set forth for the corresponding Interest Rate Modes in Section 3.02(c) hereof. Notice of each interest rate determined pursuant to clauses (v) and (vi) above shall be given promptly by the Bond Registrar by first class mail to each Bondholder as of the close of business on the Interest Payment Date for the Rate Period then ending.

#### Failure to Set Rate

(viii) Except with respect to the ARS Rate, if for any reason the interest rate on a 2005 Series A Bond is not determined by the Remarketing Agents pursuant to clauses (ii), (iii), (iv), (v) or (vi) above, the interest rate for such 2005 Series A Bond for the next succeeding Rate Period shall be the interest rate in effect for such 2005 Series A Bond for the preceding Rate Period and, except as otherwise provided pursuant to Section 2.02(d)(iv) and Section 2.14(d) hereof, there shall be no change in the then applicable Fixed Rate Period or any Conversion from the then applicable Interest Rate Mode. Notwithstanding the foregoing, if for any reason the interest rate for a 2005 Series A Bond bearing interest at a Flexible Rate is not determined by the Remarketing Agents, the interest rate for such 2005 Series A Bond for the next succeeding Interest Period will be equal to the Municipal Index and the Interest Period for such 2005 Series A Bond shall extend through the day preceding the next Business Day, until the Trustee is notified in writing of a new Flexible Rate and Flexible Rate Period determined for such 2005 Series A Bond by the Remarketing Agents.

(d) Fixed Rate Periods.

(i) Selection of Fixed Rate Period. The Fixed Rate Period shall be established by Company in the notice given pursuant to Section 2.15 hereof and thereafter each successive Fixed Rate Period shall be the same as that so established by Company until a different Fixed Rate Period is specified by Company in accordance with this Section or until the occurrence of a Conversion Date in connection with the Conversion of the Fixed Rate Period to a different Interest Rate Mode or the maturity or redemption of the 2005 Series A Bonds. Each Fixed Rate Period shall be more than one year in duration, shall be for a period which is an integral multiple of six months, and shall end on the day next preceding an Interest Payment Date; provided that if a Fixed Rate Period commences on a date other than February 1 or August 1, such Fixed Rate Period may be for a period which is not an integral multiple of six months but shall be of a duration as close as possible to (but not in excess of) such Fixed Rate Period established by Company and shall terminate on a day preceding an Interest Payment Date and each successive Fixed Rate Period thereafter shall be for the full period established by Company until a different Fixed Rate Period is specified by Company in accordance with this Section or until the occurrence of a Conversion Date in connection with the Conversion of the Fixed Rate Period to a different Interest Rate Mode or the maturity of the 2005 Series A Bonds.

(ii) Change of Fixed Rate Period. Company may change from one Fixed Rate Period to another Fixed Rate Period on any Business Day on which the 2005 Series A Bonds are subject to optional redemption pursuant to Section 4.01(b)(vi) by notifying Issuer, Trustee, the Bond Registrar, the Paying Agent, the Tender Agent and the Remarketing Agents in writing at least seven calendar days prior to the thirtieth day prior to the proposed effective date of the change. Such notice shall specify (A) the information required to be contained in the notice given by the Bond Registrar to the Bondholders pursuant to Section 2.02(d)(iii) hereof, (B) that the last day of such new Fixed Rate Period shall be the earlier of the day before the maturity date of the 2005 Series A Bonds or the day immediately preceding a February 1 or August 1, and which is more than one year after the effective date of such change, and (C) the purchase price for the 2005 Series A Bonds determined under Section 3.01(b)(i) hereof. Any such notice shall be accompanied by an opinion of Bond Counsel stating that such change is authorized or permitted by the Act and authorized by this Indenture and will not adversely affect the exclusion from gross income of the interest on the 2005 Series A Bonds for federal income tax purposes.

(iii) Notice of Change in Fixed Rate Period. The Bond Registrar shall, upon notification as specified in Section 2.02(d)(ii) notify the Bondholders of any change in the Fixed Rate Period pursuant to Section 2.02(d)(ii) by first class mail, postage prepaid, at least 30 but not more than 45 days before the effective date of such change. The notice will state:

(A) that the interest rate for the new Fixed Rate Period will be determined by the Remarketing Agents no later than 12:00 noon (New York City time) on the Business Day next preceding the first day of the new Fixed Rate Period,

(B) that the Bond Registrar will provide written notice of the interest rate for the new Fixed Rate Period,

(C) the effective date of and the end of the new Fixed Rate Period and that, on such effective date, the 2005 Series A Bonds will be purchased (and the purchase price therefor),

(D) that during the new Fixed Rate Period, Bondholders will have no right to have their 2005 Series A Bonds purchased on demand, but that on the final Interest Payment Date for such Fixed Rate Period, Bondholders will have the right to have their 2005 Series A Bonds purchased on written demand received by the Tender Agent on a Business Day not later than the fifteenth day prior to such Interest Payment Date,

(E) the redemption provisions to which the 2005 Series A Bonds are subject during the new Fixed Rate Period, and

(F) that if the Remarketing Agents should fail to determine the interest rate for the new Fixed Rate Period or if the opinion of Bond Counsel required by Section 2.02(d)(ii) is rescinded prior to the opening of business at the Principal Office of the Bond Registrar on the effective date of such change, the 2005 Series A Bonds shall bear interest at the Weekly Rate subject to the requirements set forth in Section 2.14(d) hereof.

(iv) Cancellation of Change in Fixed Rate Period. Notwithstanding any provision of this Section 2.02(d), the Fixed Rate Period shall not be changed to a new Fixed Rate Period if (A) the Remarketing Agents have not determined the interest rate for the new Fixed Rate Period in accordance with this Section 2.02, or (B) the Bond Registrar shall receive written notice from Bond Counsel prior to the opening of business at the Principal Office of the Bond Registrar on the effective date of such change that the opinion of such Bond Counsel required under Section 2.02(d)(ii) has been rescinded. Subject to Section 2.14(d), upon the occurrence of any of the events described in the preceding sentence, the 2005 Series A Bonds will bear interest at the Weekly Rate, commencing on the date which would have been the effective date of the proposed change of the Fixed Rate Period.

(e) Binding Effect of Determination and Computations. The determination of each interest rate in accordance with the terms of this Indenture shall be conclusive and binding upon the Registered Owners of the 2005 Series A Bonds, Issuer, Company, Trustee, the Bond Registrar, each Paying Agent, the Tender Agent and the Remarketing Agents.

Section 2.03. Registered 2005 Series A Bonds Required; Bond Registrar and Bond Register. All 2005 Series A Bonds shall be issued in fully registered form. The 2005 Series A Bonds shall be registered upon original issuance and upon subsequent transfer or exchange as provided in this Indenture.

Issuer shall designate a person to act as “Bond Registrar” for the 2005 Series A Bonds, provided that the Bond Registrar (if other than the Trustee) appointed for the 2005 Series A Bonds shall be a person which is acceptable to Company and which would meet the requirements for qualification as a successor trustee imposed by Section 10.08. Issuer hereby appoints Trustee, Deutsche Bank Trust Company Americas, acting through its corporate trust office located in Summit, New Jersey, as the initial Bond Registrar. Any subsequent person other than Trustee undertaking to act as Bond Registrar shall first execute a written agreement, in form satisfactory to Trustee and Company, to perform the duties of a Bond Registrar under this Indenture, which agreement shall be filed with Trustee.

The Bond Registrar shall act as registrar and transfer agent for the 2005 Series A Bonds. Issuer shall cause to be kept at the office of the Bond Registrar a register (herein sometimes referred to as the “Bond Register”) in which, subject to such reasonable regulations as it, the Trustee or the Bond Registrar may prescribe, Issuer shall provide for the initial registration of the 2005 Series A Bonds and for the registration of transfers of the 2005 Series A Bonds. Issuer shall cause the Bond Registrar, if other than the Trustee, to designate, by a written notification to Trustee, a specific office location (which may be changed from time to time, upon similar notification) at which the Bond Register is kept.

The Bond Registrar shall at such time as reasonably requested by the Tender Agent, Company or the Remarketing Agents, certify and furnish to Trustee, the Tender Agent, the Remarketing Agents, Company and any Paying Agent, the names, addresses, and holdings of Bondholders and any other relevant information reflected in the Bond Register, and Trustee, the Tender Agent, the Remarketing Agents, Company and any such Paying Agent shall for all purposes be fully entitled to rely upon the information so furnished to them and shall have no liability or responsibility in connection with the preparation thereof except to the extent that any such information was furnished or supplied to the Bond Registrar by any such entity.

Section 2.04. Transfer and Exchange. As provided in Section 2.03, Issuer shall cause a Bond Register to be kept at the designated office of the Bond Registrar. Upon surrender for registration of transfer of any 2005 Series A Bond at such office, Issuer shall execute and the Bond Registrar or its Authenticating Agent shall authenticate and deliver in the name of the transferee or transferees, one or more new fully registered 2005 Series A Bonds of Authorized Denominations for the aggregate principal amount which the Registered Owner is entitled to receive. In addition, if such 2005 Series A Bond bears interest at the Flexible Rate, the Bond Registrar, to the extent it has received the relevant notices pursuant to this Indenture, will make the appropriate insertions on the face of the 2005 Series A Bond.

Subject to the limitations set forth in Section 2.01(d) with respect to Bonds held in a Book-Entry System, at the option of the Registered Owner, 2005 Series A Bonds may be exchanged for other 2005 Series A Bonds of any other Authorized Denomination, of a like aggregate principal amount, upon surrender of the 2005 Series A Bonds to be exchanged at such

office. Whenever any 2005 Series A Bonds are so surrendered for exchange, Issuer shall execute, and the Bond Registrar or the Authenticating Agent shall authenticate and deliver, the 2005 Series A Bonds which the Bondholder making the exchange is entitled to receive.

All 2005 Series A Bonds presented for registration of transfer, exchange, redemption or payment shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and with guaranty of signature satisfactory to the Bond Registrar, duly executed by the Registered Owner or by his attorney duly authorized in writing.

No service charge shall be made to a Bondholder for any exchange or registration of transfer of 2005 Series A Bonds, but Issuer or the Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto.

Neither Issuer nor the Bond Registrar on behalf of Issuer shall be required (i) to register the transfer of or exchange any 2005 Series A Bond during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of 2005 Series A Bonds selected for redemption and ending at the close of business on the day of such mailing, (ii) to register the transfer of or exchange any 2005 Series A Bond so selected for redemption in whole or in part, or (iii) other than pursuant to ARTICLE III, to register any transfer of or exchange any 2005 Series A Bond with respect to which the Registered Owner has submitted a demand for purchase in accordance with Section 3.01(a) or which has been purchased pursuant to Section 3.01(b).

New 2005 Series A Bonds delivered upon any registration of transfer or exchange shall be valid obligations of Issuer, evidencing the same debt as the 2005 Series A Bonds surrendered, shall be secured by this Indenture and shall be entitled to all of the security and benefits hereof to the same extent as the 2005 Series A Bonds surrendered.

Section 2.05. Execution. The 2005 Series A Bonds shall be executed by the reproduced facsimile signature of the Mayor of Issuer, and a reproduced facsimile of the seal of Issuer shall be printed thereon and attested, by reproduced facsimile signature, by the Clerk of the Metro Council of Issuer.

2005 Series A Bonds executed as above provided may be issued and shall, upon the direction of Issuer, be authenticated by the Bond Registrar or the Authenticating Agent, notwithstanding that any officer signing such 2005 Series A Bonds or whose facsimile signature appears thereon shall have ceased to hold office at the time of issuance or authentication or shall not have held office at the date of the 2005 Series A Bond. All authorized facsimile signatures shall have the same force and effect as manual signatures. The 2005 Series A Bonds are not and shall never in any event become general obligations of Issuer but are special and limited obligations payable solely and only from the payments and other amounts under the Agreement, which amounts (except with respect to any moneys held in or earnings on the Rebate Fund) together with the other security provided herein, are hereby specifically assigned and pledged to such purposes in the manner and to the extent provided herein. The 2005 Series A Bonds and the interest thereon shall never constitute a debt, indebtedness or a pledge of the faith and credit of the Commonwealth of Kentucky, or any political subdivision thereof, including Issuer, within the meaning of any provision or limitation of the Constitution or statutes of the Commonwealth

of Kentucky or any political subdivision thereof, or Issuer, and shall not constitute or give rise to a pecuniary liability of Issuer or a charge against its general credit or taxing powers. Neither the Commonwealth of Kentucky nor any political subdivision thereof, nor Issuer, shall be obligated to pay the principal of the 2005 Series A Bonds, premium, if any, or the interest thereon or other costs incident thereto except from the revenues and amounts assigned and pledged therefor and neither the faith and credit nor the taxing power of the Commonwealth of Kentucky or any political subdivision thereof or Issuer is assigned or pledged to the payment of the principal of the 2005 Series A Bonds, premium, if any, or the interest thereon or other costs incident thereto. In case any officer of Issuer whose signature or a facsimile of whose signature shall appear on the 2005 Series A Bonds shall cease to be such officer before the delivery of such 2005 Series A Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

Section 2.06. Authentication; Authenticating Agent. No 2005 Series A Bond shall be valid for any purpose until the Certificate of Authentication thereon shall have been duly executed as provided in this Indenture, and such authentication shall be conclusive proof that such 2005 Series A Bond has been duly authenticated and delivered under this Indenture and that the Registered Owner thereof is entitled to the benefit of the trust hereby created. All 2005 Series A Bonds shall be dated the date of their authentication.

The Bond Registrar may appoint an Authenticating Agent with the power to act on the Bond Registrar's behalf and subject to its direction in the authentication and delivery of 2005 Series A Bonds in connection with the registration of transfers and exchanges under Section 2.04 hereof, and the authentication and delivery of 2005 Series A Bonds by an Authenticating Agent pursuant to this Section shall, for all purposes of this Indenture, be deemed to be the authentication and delivery "by the Bond Registrar". The Bond Registrar shall, however, itself authenticate all 2005 Series A Bonds upon their initial issuance and any 2005 Series A Bonds issued in substitution for other 2005 Series A Bonds pursuant to Section 2.09 and Section 2.10. The Company shall pay any Authenticating Agent reasonable compensation for its services.

Any corporation or national banking association into which any Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation or national banking association resulting from any merger, consolidation or conversion to which any Authenticating Agent shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of any Authenticating Agent, shall be the successor of the Authenticating Agent hereunder, if such successor corporation or national banking association is otherwise eligible as a Bond Registrar under Section 2.03, without the execution or filing of any further act on the part of the parties hereto or the Authenticating Agent or such successor corporation or national banking association.

Any Authenticating Agent may at any time resign by giving written notice of resignation to Trustee, the Bond Registrar, Issuer and Company. The Bond Registrar may at any time terminate the agency of any Authenticating Agent by giving written notice of termination to such Authenticating Agent, Issuer, Trustee and Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authenticating Agent shall cease to be eligible under this Section, the Bond Registrar may appoint a successor Authenticating Agent which shall be acceptable to Company, shall give written notice of such



appointment to Issuer, Trustee and Company, and shall mail notice of such appointment to all Registered Owners of 2005 Series A Bonds as the names and addresses of such Registered Owners appear on the Bond Register.

Section 2.07. Payment of Principal and Interest; Interest Rights Preserved. The principal or redemption price of any 2005 Series A Bond shall be payable when due, upon surrender of such 2005 Series A Bond, in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts, at the Principal Office of any Paying Agent. Interest on any 2005 Series A Bond on each Interest Payment Date in respect thereof shall be payable by check mailed on the Interest Payment Date to the address of the person entitled thereto as such address shall appear in the Bond Register; provided that interest payable on any 2005 Series A Bond shall, (i) if the Interest Rate Mode is the Daily Rate, the Weekly Rate, the ARS Rate or the Flexible Rate, or (ii) at the written request of any Registered Owner of at least \$1,000,000 aggregate principal amount of 2005 Series A Bonds, if the Interest Rate Mode is the Semi-Annual Rate, Term Rate or Fixed Rate, received by the Bond Registrar at least one Business Day prior to any Record Date, be payable to such Registered Owner on the applicable Interest Payment Date and thereafter in immediately available funds by wire transfer to a bank account number of such Registered Owner within the United States or by deposit into a bank account maintained with Trustee or a Paying Agent, in either case, to the bank account number of such owner specified in such request and entered by the Bond Registrar on the Bond Register; provided further, however, that if the Interest Rate Mode is the Flexible Rate, interest on any Bond shall be paid only upon presentation and surrender of such 2005 Series A Bond.

Interest on any 2005 Series A Bond which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the person in whose name that 2005 Series A Bond is registered at the close of business on the Regular Record Date for such interest or, in the case of an Interest Payment Date for a Flexible Rate Period, at the open of business on such Interest Payment Date.

Any interest on any 2005 Series A Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the Registered Owner of such 2005 Series A Bond on the relevant Regular Record Date or Interest Payment Date by virtue of having been such Registered Owner, and such Defaulted Interest shall be paid to the person in whose name the 2005 Series A Bond is registered at the close of business on a Special Record Date to be fixed by the Bond Registrar as provided herein. At such time as the Trustee, as Paying Agent, shall have received adequate moneys to make such payment of Defaulted Interest in accordance with the provisions of this Indenture, the Trustee shall determine such Special Record Date, which shall be no more than 15 nor fewer than 10 days prior to the date of proposed payment of such Defaulted Interest (the "Special Payment Date"). The Bond Registrar, on behalf of the Issuer, shall cause notice of the proposed payment of such Defaulted Interest on the Special Payment Date and the Special Record Date therefor to be mailed, first class postage prepaid, to the Trustee and the Paying Agent and to each Bondholder at his address as it appears in the Bond Register, not fewer than 10 days prior to such Special Record Date.

Subject to the foregoing provisions of this Section, each 2005 Series A Bond delivered under this Indenture upon registration of transfer of or exchange for or in lieu of any other 2005 Series A Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other 2005 Series A Bond.

Section 2.08. Persons Deemed Owners. Issuer, Trustee, the Bond Registrar, any Paying Agent, the Tender Agent and any Authenticating Agent may deem and treat the Registered Owner as the absolute owner thereof (whether or not such 2005 Series A Bond shall be overdue and notwithstanding any notation of ownership or other writing thereon) for the purpose of receiving payment of or on account of the principal of (and premium, if any, on), and (subject to Section 2.07) interest on, such 2005 Series A Bond, and for all other purposes, and neither Issuer, Trustee, the Bond Registrar, the Tender Agent, any Paying Agent nor the Authenticating Agent shall be affected by any notice to the contrary. All such payments so made to any such Registered Owner, or upon his order, shall be valid and, to the extent of the sum or sums so paid, effectual to satisfy and discharge the liability for moneys payable upon any such 2005 Series A Bond.

Section 2.09. Mutilated, Destroyed, Lost or Stolen 2005 Series A Bonds

(a) If any 2005 Series A Bond shall become mutilated, lost, stolen or destroyed, the affected Bondholder shall be entitled to the issuance of a substitute 2005 Series A Bond only as follows:

(i) in the case of a lost, stolen or destroyed 2005 Series A Bond, the Bondholder shall (i) provide notice of the loss, theft or destruction to the Issuer and the Bond Registrar within a reasonable time after the Bondholder receives notice of the loss, theft or destruction, (ii) request the issuance of a substitute Bond and (iii) provide evidence, satisfactory to Issuer and the Bond Registrar, of the ownership and the loss, theft or destruction of the affected 2005 Series A Bond;

(ii) in the case of a mutilated 2005 Series A Bond, the Bondholder shall surrender the 2005 Series A Bond to the Bond Registrar for cancellation; and

(iii) in all cases, the Bondholder shall provide indemnity against any and all claims arising out of or otherwise related to the issuance of substitute 2005 Series A Bonds pursuant to this Section satisfactory to Issuer, the Bond Registrar and Company.

Upon compliance with the foregoing, a new 2005 Series A Bond of like tenor and denomination, but bearing a number not contemporaneously outstanding executed by Issuer, shall be authenticated by the Bond Registrar and delivered to the Bondholder, all at the expense of the Bondholder to whom the substitute 2005 Series A Bond is delivered. Notwithstanding the foregoing, the Bond Registrar shall not be required to authenticate and deliver any substitute 2005 Series A Bond for a 2005 Series A Bond which has been called for redemption or which has matured or is about to mature and, in any such case, the principal or redemption price and interest then due or becoming due shall be paid by the Bond Registrar or a Paying Agent in accordance with the terms of the mutilated, lost, stolen or destroyed 2005 Series A Bond without substitution therefor.

(b) Every substituted 2005 Series A Bond issued pursuant to this Section shall constitute an additional contractual obligation of Issuer and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other 2005 Series A Bonds duly issued hereunder. In the event the 2005 Series A Bond alleged to have been destroyed, lost or stolen shall be enforceable by anyone, Issuer may recover the substitute 2005 Series A Bond from the Bondholder to whom it was issued or from anyone taking under the Bondholder except a bona fide purchaser for value without notice.

(c) All 2005 Series A Bonds shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen 2005 Series A Bonds, and shall preclude any and all other rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or investment or other securities without their surrender.

Section 2.10. Temporary Bonds. Pending preparation of definitive 2005 Series A Bonds, or by agreement with the purchasers of all 2005 Series A Bonds, Issuer may issue, and, upon its request, the Bond Registrar shall authenticate, in lieu of definitive 2005 Series A Bonds one or more temporary printed or typewritten 2005 Series A Bonds of substantially the tenor recited above in any Authorized Denomination. Upon written request of Issuer, the Bond Registrar shall authenticate definitive 2005 Series A Bonds in exchange for and upon surrender of an equal principal amount of temporary 2005 Series A Bonds. Until so exchanged, temporary 2005 Series A Bonds shall have the same rights, remedies and security hereunder as definitive 2005 Series A Bonds.

Section 2.11. Cancellation of Surrendered 2005 Series A Bonds. 2005 Series A Bonds surrendered for payment, redemption, transfer or exchange, 2005 Series A Bonds surrendered for purchase pursuant to ARTICLE III hereof and 2005 Series A Bonds surrendered to the Bond Registrar by Issuer or by Company for cancellation shall be cancelled by the Bond Registrar, which, upon written request therefor, shall notify Company of such cancellation. Cancelled 2005 Series A Bonds shall be disposed of on a permanent basis by the Bond Registrar in accordance with its standard procedures.

Section 2.12. Conditions Precedent to Authentication and Delivery of 2005 Series A Bonds. Issuer shall execute and deliver to Trustee and Trustee shall authenticate 2005 Series A Bonds and deliver them to or upon the written order of Issuer and as hereinafter in this Section provided.

Prior to and as a condition precedent to the initial delivery by Trustee of 2005 Series A Bonds, there shall be filed with and delivered to Trustee:

(i) A copy, duly certified by Metro Council Clerk of Issuer, of the ordinance adopted by Issuer authorizing the issuance of the 2005 Series A Bonds, and authorizing the execution and delivery of the Agreement and this Indenture.

(ii) Original executed counterparts of the Agreement and this Indenture.

(iii) A written request and authorization to Trustee on behalf of Issuer and signed by the Mayor and Clerk of the Metro Council of Issuer to authenticate and deliver the 2005 Series A Bonds to the purchasers therein identified or upon the written order of Issuer upon payment to Trustee but for the account of Issuer of a sum specified in such request and authorization plus accrued interest thereon, if any, to the date of delivery. The proceeds of such payment shall be paid over to Trustee and deposited in the Prior Bond Fund and applied, with other available moneys, to the defeasance, payment and discharge of the Refunded 1995 Series A Bonds by the immediate transfer by the Trustee, hereby ordered and directed, to the Prior Trustee in the amount of \$40,000,000 conditioned upon the issuance by the Prior Trustee of the Certificate described in clause (ix) hereof.

(iv) A certificate signed by authorized officers of Issuer and Company stating that neither Issuer nor Company is in default in the performance of any of the covenants, conditions, agreements or provisions contained in this Indenture or the Agreement, and that all representations and warranties on its part contained in this Indenture or the Agreement are true and correct in all material respects.

(v) A copy, duly certified by the Secretary or an Assistant Secretary of Company, of all resolutions of the Board of Directors of Company (or a duly authorized committee thereof) (A) authorizing and approving the borrowing from Issuer, pursuant to the terms of the Agreement, of at least the amount specified in the request and authorization to Trustee specified in (iii) above, and (B) authorizing the execution and delivery of the Agreement.

(vi) A copy, addressed to Trustee, of the opinion required by Section 7.7 of the Agreement.

(vii) A copy of the certificate required to be delivered pursuant to Section 4.2 of the Agreement by the Prior Trustee as to the defeasance, payment and discharge in full of the Refunded 1995 Series A Bonds on the date of issuance of the 2005 Series A Bonds.

(viii) A written opinion of Bond Counsel to the effect that the 2005 Series A Bonds have been validly issued under this Indenture and are enforceable in accordance with their terms, subject to usual qualifications, that all requirements precedent to the delivery of the 2005 Series A Bonds have been satisfied and that interest on the 2005 Series A Bonds is excludable from gross income of the Registered Owners thereof for purposes of Federal and Kentucky income taxation.

(ix) Such additional documents, certificates and showings, as shall be required by Bond Counsel, Issuer or the Company for the issuance of the 2005 Series A Bonds.

Section 2.13. Temporary 2005 Series A Bonds to be Replaced. In the event temporary 2005 Series A Bonds are issued pursuant to Section 2.10, Issuer will, without unreasonable delay, prepare and Trustee will authenticate definitive 2005 Series A Bonds in exchange for the temporary 2005 Series A Bonds. Such exchange shall be made by Trustee without charge.

Section 2.14. Conversions to and from Other Interest Rate Periods.

(a) Method of Conversion. The Interest Rate Mode for the 2005 Series A Bonds not bearing interest at the ARS Rate is subject to Conversion to a different Interest Rate Mode (other than Conversions to an ARS Rate, which is governed by procedures in Section 2.15 from time to time in whole and not in part by Company, such right to be exercised by notifying Issuer, Trustee, the Bond Registrar, the Paying Agent, the Tender Agent and the Remarketing Agents in writing at least seven calendar days prior to (x) in the cases of Conversion to or from the Semi-Annual Rate, the Term Rate or the Fixed Rate, the thirtieth day prior to the effective date of such proposed Conversion and (y) in all other cases, the fifteenth day prior to such proposed effective date; provided that, in any event, with respect to Conversion from the Flexible Rate, the effective date of such Conversion may not occur until the Interest Payment Date relating to the last Flexible Rate Period then in effect, and, provided further, that no new Flexible Rate Period may be established subsequent to such notice which would have an Interest Payment Date later than the proposed date of Conversion. Such notice shall specify (A) the effective date of such Conversion and the information required by Section 2.14(c), (B) the proposed Interest Rate Mode and (C) if the 2005 Series A Bonds will be subject to mandatory purchase on the Conversion Date. Unless the Conversion is from the Daily Rate to the Weekly Rate or the Weekly Rate to the Daily Rate, the notice must be accompanied by a written opinion of Bond Counsel stating that the Conversion is authorized or permitted by the Act and is authorized by this Indenture and will not adversely affect the exclusion from gross income of interest on the 2005 Series A Bonds for federal income tax purposes.

(b) Limitations. Any Conversion of the Interest Rate Mode for the 2005 Series A Bonds bearing interest at Variable Rates, Flexible Rates or Fixed Rates must comply with the following:

(i) the Conversion Date must be a date on which the 2005 Series A Bonds are subject to optional redemption pursuant to Section 4.01(b) and, provided further that any Conversion from the Daily Rate to the Weekly Rate or from the Weekly Rate to the Daily Rate also must be a Wednesday;

(ii) if the proposed Conversion Date would not be an Interest Payment Date except for such Conversion, the Conversion Date must be a Business Day;

(iii) if the Conversion is from the Flexible Rate, (1) the Conversion Date shall be no earlier than the latest Interest Payment Date established prior to the giving of notice to the Remarketing Agents of the proposed Conversion and (2) no further Interest Payment Date may be established while the Interest Rate Mode is then the Flexible Rate if such Interest Payment Date would occur after the effective date of that Conversion;

(iv) after a determination is made requiring mandatory redemption of all 2005 Series A Bonds pursuant to Section 4.01(a), no change in the Interest Rate Mode may be made prior to the redemption of 2005 Series A Bonds pursuant to Section 4.01(a); and

(v) 2005 Series A Bonds bearing interest at the ARS Rate are subject to Conversion only pursuant to Section 2.15.

(c) Notice to Bondholders of Conversion of Interest Rate. The Bond Registrar shall, upon receipt of the notice specified in Section 2.14(a), notify the Bondholders of each Conversion by first class mail, postage prepaid, at least 15 days (30 days in the case of Conversion from or to the Semi-Annual Rate, the Term Rate or the Fixed Rate) but not more than 45 days before the Conversion Date. The notice will state:

(i) that the Interest Rate Mode will be converted and what the new Interest Rate Mode will be;

(ii) the Conversion Date;

(iii) the Interest Payment Dates and Regular Record Dates, if any, after Conversion;

(iv) that all 2005 Series A Bonds will be subject to mandatory purchase on the Conversion Date in accordance with Section 3.01(b), and the purchase price and the procedures Bondholders are to follow; and

(v) that if (1) the Remarketing Agents should fail to determine the interest rate for the first Rate Period in the new Interest Rate Mode, (2) the 2005 Series A Bonds that are to be purchased pursuant to Section 3.01(a) or (b), as applicable, are not remarketed or sold by the Remarketing Agents or (3) the opinion of Bond Counsel required by Section 2.14(a) is rescinded prior to the opening of business at the Principal Office of the Bond Registrar on the effective date of Conversion, there shall be no such Conversion.

If the Conversion is to the Flexible Rate, the notice will also state:

(i) that during the Flexible Rate Period Registered Owners will have no right to have 2005 Series A Bonds purchased by the Tender Agent under Section 3.01(a);

(ii) that on the day following the last day of each Flexible Rate Period for a 2005 Series A Bond, such 2005 Series A Bond will be purchased;

(iii) that no notice of any such purchase described in clause (B) immediately above will be given to the Bondholder; and

(iv) that Registered Owners of 2005 Series A Bonds will be required to surrender their 2005 Series A Bonds in order to receive interest payments.

(d) Cancellation of Conversion of Interest Rate Mode. Notwithstanding any provision of Section 2.02, the Interest Rate Mode shall not be converted if (A) the Remarketing Agents have not determined the initial interest rate for the new Interest Rate Mode in accordance with Section 2.02, (B) the 2005 Series A Bonds that are to be purchased pursuant to Section 3.01(b) are not remarketed or sold by the Remarketing Agents or (C) the Bond Registrar shall receive written notice from Bond Counsel prior to the opening of business at the Principal Office of the Bond Registrar on the effective date of Conversion that the opinion of such Bond Counsel required under Section 2.14(a) has been rescinded. If such Conversion fails to occur, the 2005 Series A Bonds in a Variable Rate Period, a Flexible Rate Period or a Fixed Rate Period shall be

converted automatically to the Weekly Rate at the rate determined by the Remarketing Agents on the Failed Conversion Date (with the first period adjusted in length so that the last day of such period shall be a Tuesday); provided, however, that there must be delivered to Issuer, Trustee, the Bond Registrar, the Tender Agent, the Company and the Remarketing Agents, a written opinion of Bond Counsel to the effect that determining the interest rate to be borne by the 2005 Series A Bonds at a Weekly Rate by the Remarketing Agents on the failed Conversion Date is authorized or permitted by the Act and is authorized by the Indenture and will not adversely affect the exclusion from gross income of interest on the 2005 Series A Bonds for federal income tax purposes. If the opinion of Bond Counsel described in the proviso to the preceding sentence is not delivered on the failed Conversion Date, the 2005 Series A Bonds shall bear interest for a Rate Period of the same type and of substantially the same length as the Rate Period in effect prior to the failed Conversion Date at a rate of interest determined by the Remarketing Agents on the failed Conversion Date.

Section 2.15. Conversion to and from ARS Rate Periods.

(a) Conversions to ARS Rate Periods. At the option of the Company, all of the 2005 Series A Bonds (in an amount which is an Authorized Denomination for the new Rate Period) may be converted from a Daily Rate Period, a Weekly Rate Period, a Semi-Annual Rate Period, a Term Rate Period, a Fixed Rate Period or a Flexible Rate Period to an ARS Rate Period. Any such Conversion shall be made as follows:

(i) In any such Conversion from a Daily Rate Period, a Weekly Rate Period, a Semi-Annual Rate Period, a Term Rate Period or a Fixed Rate Period, the ARS Rate Conversion Date shall be a regularly scheduled Interest Payment Date on which interest is payable for the Interest Rate Period from which the Conversion is to be made; provided, however, that if the Conversion is from a Term Rate Period, the ARS Rate Conversion Date shall be a regularly scheduled Interest Payment Date on which a new Term Rate Period would otherwise have commenced; in any such Conversion from a Flexible Rate Period, the ARS Rate Conversion Date shall be the last regularly scheduled Interest Payment Date on which interest is payable for any Interest Period theretofore established for the 2005 Series A Bonds to be converted; and in any such conversion from a Fixed Rate Period, the ARS Rate Conversion Date shall be an Interest Payment Date on which the Fixed Rate Bonds are subject to optional redemption pursuant to Section 4.01(b).

(ii) The Company shall give written notice of any such Conversion to the Remarketing Agents, the Issuer, the Trustee, the Auction Agent, the Broker-Dealers not less than seven (7) Business Days prior to the date on which the Trustee is required to notify the Owners of the Conversion pursuant to subparagraph (iii) below. Such notice shall specify the 2005 Series A Bonds to be converted, the ARS Rate Conversion Date and the length of the initial Auction Period and subsequent Auction Periods. Together with such notice, the Company shall file with the Issuer and the Trustee an Opinion of Bond Counsel to the effect that the conversion of the 2005 Series A Bonds to an ARS Rate Period will not adversely affect the validity of the 2005 Series A Bonds or any exclusion from gross income for federal income tax purposes to which interest on the 2005 Series A Bonds would otherwise be entitled. No such change to an ARS Rate

Period shall become effective unless the Company shall also file, with the Issuer and the Trustee, an Opinion of Bond Counsel to the same effect dated the ARS Rate Conversion Date.

(iii) Not less than fifteen (15) days prior to the ARS Rate Conversion Date (thirty (30) days in case of 2005 Series A Bonds bearing interest at the Semi-Annual Rate, the Term Rate or the Fixed Rate), the Trustee shall mail a written notice of the Conversion to the Owners of all 2005 Series A Bonds to be converted; provided, however, that the Trustee shall not mail such written notice if converting from a Flexible Rate Period until it has received a written confirmation from the Remarketing Agents that no Interest Period for the 2005 Series A Bonds extends beyond the ARS Rate Conversion Date.

(iv) The ARS Rate for the Auction Period commencing on the ARS Rate Conversion Date shall be the lowest rate which, in the judgment of the Broker-Dealer, is necessary to enable the 2005 Series A Bonds to be remarketed at a price equal to the principal amount thereof, plus accrued interest, if any, on the ARS Rate Conversion Date. Such determination shall be conclusive and binding upon the Issuer, the Company, the Trustee, the Auction Agent and the Owners of the 2005 Series A Bonds to which such rate will be applicable.

(v) Not later than 5:00 p.m., New York City time, on the date of determination of the ARS Rate, the Broker-Dealer shall notify the Trustee, the Company and the Auction Agent of the ARS Rate by telephone, promptly confirmed in writing.

(vi) The Company may revoke its election to effect a Conversion of the interest rate on any 2005 Series A Bonds to an ARS Rate by giving written notice of such revocation to the Trustee, the Issuer, the Remarketing Agents, the Liquidity Provider, if any, the Auction Agent and the Broker-Dealer at any time prior to the setting of the ARS Rate by the Broker-Dealer.

(vii) No 2005 Series A Bonds may be converted to the ARS Rate when the 2005 Series A Bonds are not held by a depository in the Book-Entry System.

(b) Conversions from ARS Rate Periods. At the option of the Company, all of the 2005 Series A Bonds (in an amount which is an Authorized Denomination for the new Rate Period) may be converted from an ARS Rate Period to a Daily Rate Period, a Weekly Rate Period, a Semi-Annual Rate Period, a Term Rate Period, a Fixed Rate Period or a Flexible Rate Period. Any such Conversion shall be made as follows:

(i) The Conversion Date from an ARS Rate Period shall be the Interest Payment Date following the final Auction Period.

(ii) The Company shall give written notice of any such Conversion to the Issuer, the Trustee, the Remarketing Agents, if any, the Auction Agent and the Broker-Dealer not less than seven (7) Business Days prior to the date on which the Trustee is required to notify the Owners of the Conversion pursuant to subparagraph (iii) below. Such notice shall specify the ARS to be converted, the Conversion Date and the new rate



period to which the Conversion will be made. Together with such notice, the Company shall file with the Issuer and the Trustee an Opinion of Bond Counsel to the effect that the Conversion of the 2005 Series A Bonds will not adversely affect the validity of the 2005 Series A Bonds or any exclusion from gross income for federal income tax purposes to which interest on the 2005 Series A Bonds would otherwise be entitled. No change to a Daily Rate, a Weekly Rate, a Semi-Annual Rate, a Term Rate, a Fixed Rate or a Flexible Rate shall become effective unless the Company shall also file, with the Issuer and the Trustee, an Opinion of Bond Counsel to the same effect dated the Conversion Date.

(iii) Not less than twenty (20) days prior to the Conversion Date, the Trustee shall mail a written notice of the Conversion to the Owners of all 2005 Series A Bonds specifying the Conversion Date.

(iv) At any time prior to 10:00 a.m. New York City time on the Business Day immediately preceding the Conversion Date the Company may withdraw its notice of Conversion and the Auction for the 2005 Series A Bonds will be held on such Auction Date as if no Conversion notice had ever been given. If on a Conversion Date there has not been a timely withdrawal of the Conversion notice as set forth in the preceding sentence or any condition precedent to such Conversion is not satisfied, the Trustee will give written notice by first class mail postage prepaid as soon as practicable and in any event not later than the next succeeding Business Day to the 2005 Series A Bondholders, the Issuer that such Conversion has not occurred, that the 2005 Series A Bonds will not be purchased on the failed Conversion Date, that the Auction Agent will continue to implement the Auction Procedures on the Auction Dates with respect to such 2005 Series A Bonds which otherwise would have been converted excluding however, the Auction Date falling on the Business Day next preceding the failed Conversion Date, and that the interest rate will continue to be the ARS Rate; provided, however, that the interest rate borne by the 2005 Series A Bonds which otherwise would have been converted during the Auction Period commencing on such failed Conversion Date will be the Maximum Interest Rate, and the Auction Period will be the seven-day Auction Period.

(v) Except in the case of a Conversion to a Fixed Rate Period to maturity, a Liquidity Facility meeting the requirements of Exhibit C hereof shall be in effect on the Conversion Date.

(vi) On the Conversion Date of the 2005 Series A Bonds, the 2005 Series A Bonds shall be subject to mandatory tender at a purchase price equal to 100% of the principal amount thereof, plus accrued interest. The principal portion of the purchase price of the 2005 Series A Bonds so tendered is payable solely from the proceeds of the remarketing of such 2005 Series A Bonds. In the event that the conditions of a Conversion are not satisfied, including the failure to remarket all 2005 Series A Bonds on a mandatory tender date, the 2005 Series A Bonds will not be subject to mandatory tender, will be returned to their owners, will automatically convert to a seven-day Auction Period and will bear interest at the Maximum Interest Rate.

Section 2.16. Early Deposit of Payments.

(a) The deposits required by Section 6.03 to pay principal of and interest on the 2005 Series A Bonds shall be made, during a ARS Rate Period, no later than 12:00 noon (New York City time) on the Business Day next preceding each Interest Payment Date in funds available on the next Business Day in New York, New York. In the event such deposit is not made in accordance with this Section 2.16(a), the Trustee shall promptly send a certificate to such effect to the Auction Agent and to DTC by telecopy or similar means. In the event such deposit is not made as provided in the first sentence of this subparagraph (a), then if such deposit is made within three Business Days of the Business Day immediately preceding the Interest Payment Date, the Trustee shall promptly send a certificate to such effect to the Auction Agent and to DTC by telecopy or similar means.

(b) The deposit required by Section 4.04 to pay the redemption price of the 2005 Series A Bonds in accordance with Section 9.01(b) shall be made, during a ARS Rate Period, no later than 12:00 noon (New York City time) on the second Business Day preceding each redemption date in funds available on the next Business Day in New York, New York. In the event such deposit is not made in accordance with this Section 2.16(b), the Trustee shall immediately send a certificate to such effect to the Auction Agent by telecopy or similar means. In the event such deposit is not made as provided in the first sentence of this subparagraph (b), then if such deposit is made within three Business Days of the second Business Day immediately preceding the redemption date the Trustee shall promptly send a certificate to such effect to the Auction Agent by telecopy or similar means.

Section 2.17. CUSIP Numbers. The 2005 Series A Bonds may bear "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the 2005 Series A Bonds or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the 2005 Series A Bonds, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify in writing the Trustee of any change in the "CUSIP" numbers.

### **ARTICLE III**

#### **PURCHASE AND REMARKETING OF 2005 SERIES A BONDS**

Section 3.01. Purchase of 2005 Series A Bonds.

(a) Purchase of 2005 Series A Bonds on Demand of Owner.

(i) During Daily Rate Period. If the Interest Rate Mode for the 2005 Series A Bonds is the Daily Rate, any 2005 Series A Bond shall be purchased on the demand of the Registered Owner thereof on any Business Day during a Daily Rate Period at a purchase price equal to the principal amount thereof plus accrued interest, if any, to the Purchase Date, upon written notice or telephonic notice (to be immediately confirmed in writing) to the Tender Agent, at its Principal Office, not later than 10:00 a.m. (New York

City time) on such Business Day, which notice (A) states the number and principal amount (or portion thereof) of such 2005 Series A Bond to be purchased, (B) states the Purchase Date on which such 2005 Series A Bond shall be purchased and (C) irrevocably requests such purchase and states that the Registered Owner agrees to deliver such 2005 Series A Bond, duly endorsed in blank for transfer, with all signatures guaranteed, to the Tender Agent at or prior to 1:00 p.m. (New York City time) on such Purchase Date.

The Tender Agent shall promptly, but in no event later than 11:30 a.m. (New York City time) on such Business Day, provide the Bond Registrar, Trustee, the Remarketing Agents and Company with Electronic Notice of the receipt of the notice referred to in the preceding paragraph.

(ii) During Weekly Rate Period. If the Interest Rate Mode for the 2005 Series A Bonds is the Weekly Rate, any 2005 Series A Bond shall be purchased on the demand of the Registered Owner thereof, on any Business Day during a Weekly Rate Period at a purchase price equal to the principal amount thereof plus accrued interest, if any, to the Purchase Date, upon written notice to the Tender Agent, at its Principal Office at or before 5:00 p.m. (New York City time) on a Business Day not later than the seventh day prior to the Purchase Date, which notice (A) states the number and principal amount (or portion thereof) of such 2005 Series A Bond to be purchased, (B) states the Purchase Date on which such 2005 Series A Bond shall be purchased and (C) irrevocably requests such purchase and states that the Registered Owner agrees to deliver such 2005 Series A Bond, duly endorsed in blank for transfer, with all signatures guaranteed, to the Tender Agent at or prior to 12:00 noon (New York City time) on such Purchase Date.

The Tender Agent shall promptly, but in no event later than 4:00 p.m. (New York City time) on the Business Day next succeeding receipt of any written notice pursuant to this Section 3.01(a)(ii), provide the Bond Registrar, Trustee, the Remarketing Agents and Company with Electronic Notice of the receipt of such notice.

(iii) During Semi-Annual Rate Period. If the Interest Rate Mode for the 2005 Series A Bonds is the Semi-Annual Rate, any 2005 Series A Bond shall be purchased, on the demand of the Registered Owner thereof, on any Interest Payment Date for a Semi-Annual Rate Period at a purchase price equal to the principal amount thereof, upon written notice to the Tender Agent, at its Principal Office on a Business Day not later than the fifteenth day prior to such Purchase Date, which notice (A) states the number and principal amount (or portion thereof) of such 2005 Series A Bond to be purchased, (B) states the Purchase Date on which such 2005 Series A Bond shall be purchased and (C) irrevocably requests such purchase and states that the Registered Owner agrees to deliver such 2005 Series A Bond, duly endorsed in blank for transfer, with all signatures guaranteed, to the Tender Agent at or prior to 11:00 a.m. (New York City time) on such Purchase Date.

The Tender Agent shall promptly, but in no event later than 4:00 p.m. (New York City time) on the Business Day next succeeding receipt of any written notice pursuant to this Section 3.01(a)(iii), provide the Bond Registrar, Trustee, the Remarketing Agents and Company with Electronic Notice of the receipt of such notice.

(iv) During Term Rate Period. If the Interest Rate Mode for the 2005 Series A Bonds is the Term Rate, any 2005 Series A Bond shall be purchased on the demand of the Registered Owner thereof, on the final Interest Payment Date for any Term Rate Period at a purchase price equal to the principal amount thereof, upon written notice to the Tender Agent, at its Principal Office on a Business Day not later than the fifteenth day prior to such Purchase Date, which notice (A) states the number and principal amount (or portion thereof) of such 2005 Series A Bond to be purchased, (B) states the Purchase Date on which such 2005 Series A Bond shall be purchased and (C) irrevocably requests such purchase and states that the Registered Owner agrees to deliver such 2005 Series A Bond, duly endorsed in blank for transfer, with all signatures guaranteed, to the Tender Agent at or prior to 11:00 a.m. (New York City time) on such Purchase Date.

The Tender Agent shall promptly, but in no event later than 4:00 p.m. (New York City time) on the Business Day next succeeding receipt of any written notice pursuant to this Section 3.01(a)(iv), provide the Bond Registrar, Trustee, the Remarketing Agents and Company with Electronic Notice of the receipt of such notice.

(v) During Fixed Rate Period. If the Interest Rate Mode for the 2005 Series A Bonds is the Fixed Rate, any 2005 Series A Bond shall be purchased on the demand of the Registered Owner thereof, on the final Interest Payment Date for a Fixed Rate Period at a purchase price equal to the principal amount thereof, upon written notice to the Tender Agent, at its Principal Office on a Business Day not later than the fifteenth day prior to such Purchase Date, which notice (A) states the number and principal amount (or portion thereof) of such 2005 Series A Bond to be purchased, (B) states the Purchase Date on which such 2005 Series A Bond shall be purchased and (C) irrevocably requests such purchase and states that the owner agrees to deliver such 2005 Series A Bond, duly endorsed in blank for transfer, with all signatures guaranteed, to the Tender Agent at or prior to 11:00 a.m. (New York City time) on such Purchase Date.

The Tender Agent shall promptly, but in no event later than 4:00 p.m. (New York City time) on the Business Day next succeeding receipt of any written notice pursuant to this Section 3.01(a)(v), provide the Bond Registrar, Trustee, the Remarketing Agents and Company with Electronic Notice of the receipt of such notice.

(vi) Notwithstanding any other provision of this Section 3.01(a), the Registered Owner of a 2005 Series A Bond may demand purchase of a portion of such 2005 Series A Bond only if the portion to be purchased and the portion to be retained by such Registered Owner each will be in an Authorized Denomination.

(b) Mandatory Purchases of 2005 Series A Bonds.

(i) Mandatory Purchase on All Conversion Dates or Change by Company in Fixed Rate Period. The 2005 Series A Bonds shall be subject to mandatory tender for purchase at a purchase price equal to the principal amount thereof, plus if the Interest Rate Mode is the Fixed Rate, the redemption premium, if any, which would be payable under ARTICLE IV, if the 2005 Series A Bonds were redeemed on the Purchase Date (A) on each Conversion Date for any Conversion and (B) on the effective date of any

change in the Fixed Rate Period by Company pursuant to Section 2.02(d)(ii). Such purchase will be required even if the change in the Fixed Rate Period or the Conversion is cancelled pursuant to Section 2.02(d)(iv), Section 2.14(d) or Section 2.15(a)(vi).

(ii) Mandatory Purchase on Each Interest Payment Date for Flexible Rate Period. Whenever the Interest Rate Mode for the 2005 Series A Bonds is the Flexible Rate, each 2005 Series A Bond shall additionally be subject to mandatory purchase, without prior notice, at a purchase price equal to the principal amount thereof, without premium, on each Interest Payment Date that interest on such 2005 Series A Bond is payable at an interest rate determined for the Flexible Rate. No notice of mandatory purchase following the end of a Flexible Rate Period shall be required to be given to the Bondholders.

(iii) Mandatory Purchase on Day After the End of Semi-Annual, Term and Fixed Rate Periods.

(A) Whenever the Interest Rate Mode for the 2005 Series A Bonds is the Semi-Annual Rate Period, the Term Rate Period or the Fixed Rate Period, each 2005 Series A Bond shall be subject to mandatory purchase at a purchase price equal to the principal amount thereof, without premium, plus accrued interest, if any, on the first Business Day after the end of the Semi-Annual Rate Period, the Term Rate Period and the Fixed Rate Period, respectively.

(B) The Bond Registrar shall notify in writing the Bondholders whose 2005 Series A Bonds are subject to mandatory purchase at least 30 days prior to the end of each Semi-Annual Rate Period, Term Rate Period or Fixed Rate Period that the subject 2005 Series A Bonds will be purchased on the Business Day following the end of such Semi-Annual Rate Period, Term Rate Period or Fixed Rate Period and that if any owner shall fail to deliver a 2005 Series A Bond for purchase with an appropriate instrument of transfer to the Tender Agent for purchase on said date, and if the Tender Agent is in receipt of the purchase price therefor, any such 2005 Series A Bond not delivered shall nevertheless be deemed purchased on such date and shall cease to accrue interest on and from such date; provided, however, that no such notice need be given if the Bond Registrar has mailed a notice to the affected Bondholders pursuant to either Section 2.02(d)(iii) or Section 2.14(c).

(c) Payment of Purchase Price. The purchase price of any 2005 Series A Bond purchased pursuant to Section 3.01 (and delivery of a replacement 2005 Series A Bond in exchange for the portion of any 2005 Series A Bond not purchased if such 2005 Series A Bond is purchased in part only) shall be payable on the Purchase Date upon delivery of such 2005 Series A Bond to the Tender Agent on such Purchase Date; provided that such 2005 Series A Bond must be delivered to the Tender Agent at or prior to 12:00 noon (New York City time) in the case of 2005 Series A Bonds delivered for purchase during a Weekly Rate Period or Flexible Rate Period (at or prior to 1:00 p.m. (New York City time) in the case of 2005 Series A Bonds delivered for purchase during a Daily Rate Period and at or prior to 11:00 a.m. (New York City time) in the case of 2005 Series A Bonds delivered for purchase during a Semi-Annual Rate

Period, Term Rate Period or Fixed Rate Period) for payment by the close of business on the date of such purchase; provided, however, that if the date of such purchase is not a Business Day, the purchase price shall be payable on the next succeeding Business Day.

Any 2005 Series A Bond delivered for payment of the purchase price shall be accompanied by an instrument of transfer thereof in form satisfactory to the Tender Agent executed in blank by the Registered Owner thereof and with all signatures guaranteed. The Tender Agent may refuse to accept delivery of any 2005 Series A Bond for which an instrument of transfer satisfactory to it has not been provided and shall have no obligation to pay the purchase price of such 2005 Series A Bond until a satisfactory instrument is delivered.

If the Registered Owner of any 2005 Series A Bond (or portion thereof) that is subject to purchase pursuant to this Article fails to deliver such 2005 Series A Bond with an appropriate instrument of transfer to the Tender Agent for purchase on the Purchase Date, and if the Tender Agent is in receipt of the purchase price therefor, such 2005 Series A Bond (or portion thereof) shall nevertheless be deemed purchased on the Purchase Date thereof. Any Registered Owner who so fails to deliver such 2005 Series A Bond for purchase on (or before) the Purchase Date shall have no further rights thereunder, except the right to receive the purchase price thereof from those moneys deposited with the Tender Agent in the Purchase Fund pursuant to Section 3.03 hereof upon presentation and surrender of such 2005 Series A Bond to the Tender Agent properly endorsed for transfer in blank with all signatures guaranteed. The Tender Agent shall, as to any 2005 Series A Bonds which have not been delivered to it, promptly notify the Remarketing Agents, Trustee, and the Bond Registrar in writing of such nondelivery. Upon receipt of such notification, the Bond Registrar shall place a stop transfer against an appropriate amount of Bonds registered in the name of the Registered Owner(s) on the Bond Register, commencing with the lowest serial number 2005 Series A Bond registered in the name of such Registered Owner(s) (until stop transfers have been placed against an appropriate amount of 2005 Series A Bonds) until the appropriate purchased 2005 Series A Bonds are surrendered to the Tender Agent.

The Tender Agent shall hold all 2005 Series A Bonds delivered pursuant to this Section 3.01 in trust for the benefit of the Registered Owners thereof until moneys representing the purchase price of such 2005 Series A Bonds shall have been delivered to or for the account of or to the order of such Registered Owners, and thereafter shall make available to be delivered to the purchasers thereof by the Remarketing Agents, replacement 2005 Series A Bonds, prepared by the Bond Registrar in accordance with the directions of the Remarketing Agents and authenticated by an Authenticating Agent for delivery to such purchasers.

#### Section 3.02. Remarketing of 2005 Series A Bonds.

(a) Upon the receipt by the Remarketing Agents of any notice pursuant to Section 3.01(a), the Remarketing Agents, subject to the terms of the Remarketing Agreement, shall use its commercially reasonable best efforts to offer for sale and sell the 2005 Series A Bonds in respect of which such notice has been given. Unless otherwise instructed by Company, the Remarketing Agents, subject to the terms of the Remarketing Agreement, shall use their commercially reasonable best efforts to offer for sale and sell any 2005 Series A Bonds to be purchased pursuant to Section 3.01(b). Any such 2005 Series A Bonds shall be offered: (i) at a

price equal to the principal amount thereof, plus interest accrued, if any, to the Purchase Date, and (ii) pursuant to terms calling for payment of the purchase price on such Purchase Date against delivery of such 2005 Series A Bonds. The Remarketing Agents, the Paying Agent, Trustee, the Bond Registrar, or the Tender Agent may purchase any 2005 Series A Bonds offered pursuant to this Section 3.02 for its own account.

(b) The Remarketing Agents shall, subject to the terms of the Remarketing Agreement and at the direction of Company, use their commercially reasonable best efforts to offer for sale and sell, on behalf of Company, at the direction of Company, any 2005 Series A Bonds held for the Company by the Tender Agent pursuant to Section 3.04(a)(ii)(A). Any such 2005 Series A Bonds shall be offered at the best available price, plus interest accrued to the sale date; provided that if such price is other than a price equal to the principal amount of such 2005 Series A Bonds, plus interest accrued to the sale date, there must be delivered to Issuer, Trustee, the Bond Registrar, the Tender Agent, Company and the Remarketing Agents, a written opinion of Bond Counsel to the effect that offering such 2005 Series A Bonds at a price other than a price equal to the principal amount thereof plus interest accrued to the sale date will not adversely affect the exclusion from gross income of interest on the 2005 Series A Bonds for federal income tax purposes.

(c) The Remarketing Agents shall advise in writing the Tender Agent of the principal amount of 2005 Series A Bonds which have been remarketed, together with the denominations and registration instructions (including taxpayer identification numbers) in accordance with the following schedule (all times of which are New York City time):

<u>Current Interest Rate Period or, in connection with a Con- version, Interest Rate Period to which converting</u>	<u>Time by which information is to be furnished to Tender Agent</u>
Flexible Rate Period	1:00 p.m. on Purchase Date
Daily Rate Period	1:00 p.m. on Purchase Date
Weekly Rate Period	10:00 a.m. on Purchase Date
Semi-Annual Rate Period	3:00 p.m. on Business Day immediately preceding Purchase Date
Term Rate Period	3:00 p.m. on Business Day immediately preceding Purchase Date
Fixed Rate Period	3:00 p.m. on Business Day immediately preceding Purchase Date

Section 3.03. Purchase Fund; Purchase of 2005 Series A Bonds Delivered to Tender Agent.

(a) There is hereby established with the Tender Agent a fund known as the Purchase Fund, the moneys in which shall be used solely to pay the purchase price of 2005 Series A Bonds purchased pursuant to Section 3.01 hereof. The Purchase Fund shall be maintained as a separate and segregated fund and any moneys held therein shall not be commingled with any other funds of the Tender Agent, shall be held on and after any Purchase Date solely for the benefit of the Registered Owners of 2005 Series A Bonds purchased on such Purchase Date pursuant to Section 3.01 hereof, shall not secure any other 2005 Series A Bonds or be available for any purpose except as described in this paragraph and shall not be invested. Neither Issuer nor Company shall have any interest in the Purchase Fund, except as set forth herein.

(b) There shall be deposited into the Purchase Fund from time to time the following:

(i) such moneys representing proceeds (exclusive of any premium) from the resale by the Remarketing Agents of 2005 Series A Bonds, as described in Section 3.02(a) hereof, delivered by the Remarketing Agents to the Tender Agent pursuant to Section 3.06 hereof and deposited directly therein; and

(ii) such money (A) furnished by Trustee or the Paying Agent directly to the Tender Agent at the direction of the Company or (B) otherwise paid by Company directly to the Tender Agent, and deposited by the Tender Agent directly into, and held in, the Purchase Fund.

To the extent that the Tender Agent has received proceeds in accordance with clauses (b)(i) and (b)(ii) above in excess of the aggregate amount necessary to purchase the 2005 Series A Bonds as tendered, the Tender Agent shall promptly (and in any event no later than the close of business of Company on the day the deposit is made) return the excess to Company.

(c) On each date 2005 Series A Bonds are to be purchased pursuant to Section 3.01, such 2005 Series A Bonds shall be purchased from the Registered Owners thereof. Funds for the payment of such purchase price shall be derived from the following sources:

(i) Proceeds (exclusive of any premium) of the remarketing of such 2005 Series A Bonds pursuant to Section 3.02(a) and furnished to the Tender Agent by the Remarketing Agents and deposited directly into, and held in, the Purchase Fund; and

(ii) Moneys paid by Company to pay the purchase price to the Tender Agent. Anything herein to the contrary notwithstanding, the Tender Agent shall not be obligated to use its own funds to purchase any 2005 Series A Bonds hereunder.

Section 3.04. Delivery of Remarketed or Purchased 2005 Series A Bonds.

(a) 2005 Series A Bonds purchased pursuant to Section 3.03 shall be delivered as follows:



(i) 2005 Series A Bonds sold by the Remarketing Agents to persons or entities other than Company, its affiliates and Issuer shall be delivered by the Remarketing Agents to the purchasers thereof.

(ii) 2005 Series A Bonds purchased solely with moneys described in Section 3.03(c)(ii) shall, at the direction of Company, be

(A) delivered to or held by the Tender Agent for the account of Company,

(B) delivered to the Bond Registrar for cancellation or

(C) delivered to Company.

(b) If, on any date prior to the release of 2005 Series A Bonds held by or for the account of Company pursuant to Section 3.04(a)(ii), all 2005 Series A Bonds are called for redemption pursuant to ARTICLE IV or an acceleration of the 2005 Series A Bonds pursuant to ARTICLE IX occurs, such 2005 Series A Bonds shall be deemed to have been paid and shall thereupon be delivered to and cancelled by the Bond Registrar.

#### Section 3.05. Sources of Payment.

(a) If the Interest Rate Mode for the 2005 Series A Bonds is not the Flexible Rate or the Daily Rate, then, if the Tender Agent has not been notified by the Remarketing Agents pursuant to Section 3.02(c) that the Remarketing Agents have remarketed enough 2005 Series A Bonds such that sufficient moneys will be available in the Purchase Fund to pay the purchase price on the 2005 Series A Bonds to be purchased on such Purchase Date, at or prior to 10:30 a.m. (New York City time) on such Purchase Date, the Tender Agent shall, by Electronic Notice, request additional funds from Company in a manner so as to furnish immediately available funds by 3:00 p.m. (New York City time) on such Purchase Date, in an amount sufficient, together with moneys already on deposit in the Purchase Fund and available for such purchase, to enable the Tender Agent to pay the purchase price of such 2005 Series A Bonds to be purchased on such Purchase Date, and the Company shall either pay the requested amount or cause the requested amount to be paid directly to the Tender Agent which shall deposit those moneys directly into the Purchase Fund.

(b) If the Interest Rate Mode for the 2005 Series A Bonds is the Flexible Rate, then at or prior to 1:30 p.m. (New York City time) on each Purchase Date, the Tender Agent shall, by Electronic Notice, notify the Paying Agent of the amount of 2005 Series A Bonds it has delivered to the Remarketing Agents for which it has received from the Remarketing Agents a receipt or other instrument constituting the obligation of the Remarketing Agents to deliver remarketing proceeds pursuant to Section 3.03 of the Indenture, such obligation being conditioned on verification by the Remarketing Agents that such 2005 Series A Bonds conform to the instructions contained in the notice given to the Tender Agent by the Remarketing Agents regarding denominations, registration instructions, the Flexible Rate and the Flexible Rate Period for each such 2005 Series A Bond. Except to the extent the Tender Agent is informed pursuant to the foregoing Electronic Notice that the Tender Agent will receive amounts from the Remarketing Agents sufficient to pay the purchase price of such 2005 Series A Bonds, the

Tender Agent shall by 1:30 p.m. (New York City time) request additional funds from Company in a manner so as to furnish immediately available funds by 4:30 p.m. on such Purchase Date, in an amount sufficient, together with moneys already on deposit or expected to be on deposit in the Purchase Fund and available for such purchase, to enable the Tender Agent to pay the purchase price of such 2005 Series A Bonds to be purchased on such Purchase Date. Company shall either pay the requested amount to the Tender Agent or shall cause such amount to be paid directly to the Tender Agent, which, in either case, shall deposit those moneys directly into the Purchase Fund.

(c) If the Interest Rate Mode for the 2005 Series A Bonds is the Daily Rate, then, if the Tender Agent has not been notified by the Remarketing Agents pursuant to Section 3.02(c) that the Remarketing Agents have remarketed enough 2005 Series A Bonds such that sufficient moneys will be available in the Purchase Fund to pay the purchase price on the 2005 Series A Bonds to be purchased on such Purchase Date, at or prior to 1:00 p.m. (New York City time) on such Purchase Date, the Tender Agent shall, by Electronic Notice, request additional funds from Company in a manner so as to furnish immediately available funds by 3:00 p.m. (New York City time) on such Purchase Date, in an amount sufficient, together with moneys already on deposit in the Purchase Fund and available for such purchase, to enable the Tender Agent to pay the purchase price of such 2005 Series A Bonds to be purchased on such Purchase Date. The Company shall either pay the requested amount or cause the requested amount to be paid directly to the Tender Agent which shall deposit those moneys directly into the Purchase Fund.

(d) Notwithstanding the preceding paragraphs (a), (b) and (c) hereof, to the extent that any deficiency in purchase price payments results from the Remarketing Agents' failure to deliver remarketing proceeds of all 2005 Series A Bonds which the Remarketing Agents notified the Tender Agent were remarketed, Company shall not be obligated to deliver the funds referred to in the preceding paragraphs (a), (b) and (c) hereof until the opening of business on the next succeeding Business Day, in which case failure of the Tender Agent to make such payment until such next succeeding Business Day shall not constitute an event of default hereunder. If sufficient funds are not available for the purchase of all tendered 2005 Series A Bonds, no purchase of 2005 Series A Bonds will be consummated, but the failure to consummate such purchase will not be deemed to be an event of default hereunder if sufficient funds have been provided in a timely manner by Company to the Tender Agent for such purpose.

Section 3.06. Delivery of Proceeds of Sale. The proceeds of the remarketing of any 2005 Series A Bonds by the Remarketing Agents shall be delivered by the Remarketing Agents directly to the Tender Agent no later than 2:00 p.m. (New York City time) on the Purchase Date therefor except that such proceeds shall, if the Interest Rate Mode is, or is being converted to, the Flexible Rate, be delivered to the Tender Agent no later than 3:00 p.m. (New York City time) on the Purchase Date and all such remarketing proceeds shall be deposited directly into the Purchase Fund.

If any Company Bonds held by the Tender Agent for the account of Company pursuant to Section 3.04(a)(ii)(A) are remarketed by the Remarketing Agents pursuant to Section 3.02(b), then the proceeds received from such remarketing shall be remitted by the Tender Agent to Company.

Section 3.07. Limitations on Purchase and Remarketing. Anything in this Indenture to the contrary notwithstanding, there shall be no purchase of 2005 Series A Bonds pursuant to Section 3.01(a) if there shall have occurred and be continuing an event of default under Section 9.01(a), (b) or (d)**Error! Reference source not found.** and notice of such event of default has been provided as required by ARTICLE IX hereof, and there shall be no remarketing of 2005 Series A Bonds pursuant to Section 3.02 if there shall have occurred and be continuing an event of default under Section 9.01(a) or (b) hereof.

Section 3.08. Noteline Direct Facilities. The Issuer, at the written request of the Company, may enter into and utilize the optional Noteline Direct system for transmitting instructions and/or filings or obtaining reports with respect to the 2005 Series A Bonds in the Flexible Rate Mode. Use of the Noteline Direct system is optional at the sole discretion of the Company.

## **ARTICLE IV**

### **REDEMPTION OF 2005 SERIES A BONDS BEFORE MATURITY**

#### Section 4.01. Redemption Dates and Prices.

(a) General. The 2005 Series A Bonds shall be non-callable for redemption except as provided in this Section 4.01 and except in the event and to the extent that:

(i) Company is required to prepay the Loan in whole or in part pursuant to Section 10.3 of the Agreement or

(ii) Company shall exercise any of its options to prepay the Loan in whole as provided in Section 10.1 of the Agreement, or

(iii) Company shall elect to redeem 2005 Series A Bonds in whole or in part pursuant to Section 6.1 of the Agreement.

If called for redemption pursuant to clause (i), (ii) or (iii) above, the 2005 Series A Bonds shall be subject to redemption by Issuer in whole or in part as appropriate, on any redemption date established pursuant to Section 10.4 of the Agreement by lot in such manner as Trustee may determine, at 100% of the principal amount thereof plus accrued interest to the redemption date. Upon the applicable dates of redemption the Bondholders shall be paid in such funds as are stipulated in Section 2.07 of this Indenture.

#### (b) Additional Optional Redemption.

(i) Whenever the Interest Rate Mode for the 2005 Series A Bonds is the Daily Rate or the Weekly Rate, the 2005 Series A Bonds shall be subject to redemption at the option of the Issuer, upon the written direction of Company, in whole or in part, at a redemption price of 100% of the principal amount thereof, plus accrued interest, if any, to the redemption date, on any Business Day.

(ii) Whenever the Interest Rate Mode for 2005 Series A Bonds is the ARS Rate, such 2005 Series A Bond shall be subject to redemption at the option of the Issuer, upon the written direction of the Company, in whole or in part, at a redemption price of 100% of the principal amount thereof, plus interest accrued, if any, on the Interest Payment Date immediately following the end of the Auction Period.

(iii) Whenever the Interest Rate Mode for a 2005 Series A Bond is the Flexible Rate, each 2005 Series A Bond shall be subject to redemption at the option of the Issuer, upon the written direction of the Company, in whole or in part, at a redemption price of 100% of the principal amount thereof, plus accrued interest, if any, to the redemption date, on each Interest Payment Date for that 2005 Series A Bond.

(iv) Whenever the Interest Rate Mode for the 2005 Series A Bonds is the Semi-Annual Rate, the 2005 Series A Bonds shall be subject to redemption at the option of the Issuer, upon the written direction of the Company, in whole or in part, at a redemption price of 100% of the principal amount thereof on any Interest Payment Date for each Semi-Annual Rate Period.

(v) Whenever the Interest Rate Mode for the 2005 Series A Bonds is the Term Rate, the 2005 Series A Bonds shall be subject to redemption at the option of the Issuer, upon the written direction of Company, in whole or in part, at a redemption price of 100% of the principal amount thereof to the redemption date, on the final Interest Payment Date for each Term Rate Period.

(vi) Whenever the Interest Rate Mode for the 2005 Series A Bonds is the Fixed Rate Period, the 2005 Series A Bonds will be subject to redemption, in whole or in part, at the option of the Issuer, upon the written direction of the Company, (A) on the final Interest Payment Date for the applicable Interest Rate Period at a redemption price of 100% of the principal amount thereof and (B) prior to the end of the then current Fixed Rate Period at any time during the redemption period and at the redemption price of 100% of the principal amount thereof, plus accrued interest, if any, to the redemption date:

<u>Original Length of Current Fixed Rate</u>	<u>Commencement of Redemption Period</u>
More than or equal to 11 years	First Interest Payment Date on or after the tenth anniversary of commencement of Fixed Rate Period
Less than 11 years	Non-callable

If, at the time of Company's notice of a change in the Fixed Rate Period pursuant to Section 2.02(d), or its notice of Conversion of the Interest Rate Mode for the 2005 Series A Bonds to the Fixed Rate pursuant to Section 2.14, or, when the Interest Rate Mode for the 2005 Series A Bonds is the Fixed Rate, at least forty days prior to the Purchase Date for the 2005

Series A Bonds pursuant to Section 3.01(a)(v), Company provides a certification of the Remarketing Agents to Trustee, the Bond Registrar, the Paying Agent, the Tender Agent and Issuer that the foregoing schedule is not consistent with Prevailing Market Conditions and an opinion of Bond Counsel that a change in the redemption provisions of the 2005 Series A Bonds will not adversely affect the exclusion from gross income of interest on the 2005 Series A Bonds for federal income tax purposes, the foregoing redemption periods and redemption prices may be revised, effective as of the date of such change in the Fixed Rate Period, the Conversion Date, or that Purchase Date, as determined by the Remarketing Agents in their judgment, taking into account the then Prevailing Market Conditions, as stipulated in such certification, which shall be appended by Trustee to its counterpart of this Indenture. Any such revision of the redemption periods and redemption prices shall not be considered an amendment of or a supplement to this Indenture and shall not require the consent of any Bondholder or any other person or entity.

(c) Mandatory Redemption; ARS. If the 2005 Series A Bonds bear interest at the ARS Rate and the ARS are subject to sinking fund redemption, if any, the scheduled redemption date is not an Interest Payment Date, the ARS will be redeemed on the Interest Payment Date immediately preceding the scheduled sinking fund redemption date. The 2005 Series A Bonds in a Special Auction Period may be redeemed prior to the end of the Special Auction Period pursuant to the sinking fund redemption schedule.

(d) Redemption Procedures. The 2005 Series A Bonds shall be called for redemption by Trustee as herein provided in accordance with Section 10.4 of the Agreement.

#### Section 4.02. Notice of Redemption.

(a) Trustee shall, upon being satisfactorily indemnified as to expenses, cause notice of the call for any redemption, identifying the 2005 Series A Bonds or portions thereof, in Authorized Denominations to be redeemed to be sent by first class mail (postage prepaid) (i) at least thirty (30) days and not in excess of forty-five (45) days in the case of 2005 Series A Bonds bearing interest at the Semi-Annual Rate, the Term Rate or the Fixed Rate and (ii) at least fifteen (15) days and not in excess of forty-five (45) days in the case of 2005 Series A Bonds bearing interest at the ARS Rate, Daily Rate, Weekly Rate or Flexible Rate, in each case prior to the redemption date to the Registered Owner of each 2005 Series A Bond to be redeemed.

If any 2005 Series A Bonds bearing interest at the ARS Rate are to be redeemed and such Bonds are held by a Securities Depository, the Issuer shall include in the notice of the call for redemption delivered to the Securities Depository (i) a date placed under an item entitled "Publication Date for Securities Depository Purposes" and such date shall be three Business Days after the Auction Date immediately preceding such redemption date and (ii) an instruction to the Securities Depository to (x) determine on such Publication Date after the Auction held on the immediately preceding Auction Date has settled, the Securities Depository Participants whose Securities Depository positions shall be redeemed and the principal amount of such Auction Rate Bonds to be redeemed from each such position (the "Securities Depository Redemption Information"), and (y) notify the Auction Agent immediately after such determination of the (1) positions of the Securities Depository Participants in such Bonds immediately prior to such Auction settlement, (2) the position of the Securities Depository

Participants in such ARS Bonds immediately following such Auction settlement, and (3) the Securities Depository Redemption Information.

(b) Any notice mailed as provided in this Section 4.02 shall be conclusively presumed to have been duly given, irrespective of whether the Registered Owner receives the notice. Failure to give such notice by mailing or any defect therein in respect of any 2005 Series A Bond shall not affect the validity of any proceedings for the redemption of any other 2005 Series A Bond. All 2005 Series A Bonds so called for redemption will cease to bear interest after the date fixed for redemption provided funds for their redemption are on deposit at the place of payment at that time.

Section 4.03. Cancellation. All 2005 Series A Bonds which have been redeemed shall not be reissued but shall be cancelled by Trustee.

Section 4.04. Redemption Payments. On or prior to the date fixed for redemption of 2005 Series A Bonds, funds shall be deposited by or on behalf of Issuer with Trustee in the Bond Fund to pay, and Trustee is hereby authorized and directed to apply any such funds to the payment of, the 2005 Series A Bonds or portions thereof called for redemption, together with accrued interest thereon to the redemption date and any required premium. Upon the giving of notice if, on such redemption date, funds sufficient for the payment of principal, premium, if any, and accrued interest to date of redemption are on deposit with the Trustee for such purposes, interest on the 2005 Series A Bonds or portions thereof so called for redemption shall cease to accrue after the date fixed for redemption. No payment of principal, premium or interest shall be made by Trustee upon any 2005 Series A Bond or portion thereof called for redemption until such 2005 Series A Bond or portion thereof shall have been delivered to Trustee for payment or cancellation or Trustee shall have received the items required by Section 2.09 hereof with respect to any mutilated, lost, stolen or destroyed 2005 Series A Bond.

Section 4.05. Partial Redemption of 2005 Series A Bonds. Pursuant to Section 4.01 hereof, a portion of any 2005 Series A Bond may be redeemed, but 2005 Series A Bonds shall be redeemed only in an Authorized Denomination. Upon surrender of any 2005 Series A Bond for redemption in part only, Issuer shall execute and Trustee shall authenticate and deliver to the holder thereof, at the expense of Company, a new 2005 Series A Bond or 2005 Series A Bonds of Authorized Denomination in aggregate principal amount equal to the unredeemed portion of the 2005 Series A Bond surrendered.

Section 4.06. No Partial Redemption After Default. Anything in this Indenture or the Agreement to the contrary notwithstanding, if there shall have occurred and be continuing an event of default described in Section 9.01 hereof, there shall be no redemption of less than all of the 2005 Series A Bonds at the time outstanding.

Section 4.07. Company Direction of Optional Redemption. Issuer shall direct Trustee in writing and Bond Registrar in writing to call 2005 Series A Bonds for optional redemption only when it shall have been notified by Company to do so. Notice of any optional redemption to the Bond Registrar shall specify the principal amount of 2005 Series A Bonds to be redeemed and the redemption date. Company will give the notice to the Bond Registrar and Trustee at least 15

days but not more than 90 days prior to the day on which the Bond Registrar is required to give notice of such optional redemption to the Bondholders.

Section 4.08. Selection of 2005 Series A Bonds to be Called for Redemption. Except as otherwise provided herein or in the 2005 Series A Bonds, if less than all the 2005 Series A Bonds are to be redeemed, the particular 2005 Series A Bonds to be called for redemption shall be selected by lot by the Bond Registrar; provided, however, that in connection with any redemption of 2005 Series A Bonds the Bond Registrar shall first select for redemption any 2005 Series A Bonds held pursuant to Section 3.04(a)(ii) and that if, as stated in a certificate of a Company Representative delivered to the Bond Registrar, Company shall have offered to purchase all 2005 Series A Bonds then Outstanding and less than all of such 2005 Series A Bonds shall have been tendered to Company for such purchase, the Bond Registrar, at the direction of a Company Representative, which direction shall specifically identify those 2005 Series A Bonds which have not been so tendered to Company, shall select for redemption all such 2005 Series A Bonds which have not been so tendered. The Bond Registrar shall treat any 2005 Series A Bond of a denomination greater than the minimum Authorized Denomination for the Interest Rate Mode then applicable to the 2005 Series A Bonds as representing that number of separate 2005 Series A Bonds each of that minimum Authorized Denomination (and, if any 2005 Series A Bond is not in a denomination that is an integral multiple of the minimum Authorized Denomination for such Interest Rate Mode, one separate 2005 Series A Bond of the remaining principal amount of the 2005 Series A Bond) as can be obtained by dividing the actual principal amount of such 2005 Series A Bond by that minimum Authorized Denomination; provided that no 2005 Series A Bond shall be redeemed in part if it results in the unredeemed portion of the 2005 Series A Bond being in a principal amount other than an Authorized Denomination.

Section 4.09. Additional Matters Regarding Notices of Redemption.

(a) Notices for the call for redemption of 2005 Series A Bonds shall be prepared by the Trustee at the expense of Company and in the name of the Issuer and shall identify (i) the complete official name of the issue, (ii) the 2005 Series A Bonds or portions thereof to be redeemed by designation, letters, CUSIP numbers, numbers or other distinguishing marks, interest rate, maturity date and principal amount, (iii) the redemption price to be paid, (iv) the date fixed for redemption, (v) the place or places, by name and address, where the amounts due upon redemption are payable and (vi) the name and telephone number of the person to whom inquiries regarding the redemption may be directed; provided, however, that the failure to identify a CUSIP number for said 2005 Series A Bonds in the redemption notice, or the inclusion of an incorrect CUSIP number, shall not affect the validity of such redemption notice provided, however, that in the event the provisions of ARTICLE VIII have not been complied with, any redemption notice shall expressly state that it is conditioned on there being sufficient moneys to pay the full redemption price of the 2005 Series A Bonds to be redeemed.

The notice also shall be attached by the Tender Agent to any 2005 Series A Bond which is tendered for purchase and remarketed in the period between the mailing of such notice and the date set for redemption. A second notice shall be sent in the same manner prescribed by Section 4.02 not more than 60 days after the redemption date to the Registered Owner of any redeemed 2005 Series A Bond which was not presented for payment on the redemption date. Failure to

receive notice pursuant to this Section, or any defect in that notice, as to any 2005 Series A Bond shall not affect the validity of the proceedings for the redemption of any 2005 Series A Bond. Notices of redemption shall also be mailed to Trustee, the Remarketing Agents, the Tender Agent and the Paying Agents.

(b) The Bond Registrar shall take the following additional actions with respect to such redemption notice, but no defect in the following actions or any failure to take the same shall defeat the effectiveness of the foregoing redemption notice:

(i) At least 16 days (31 days if the Interest Rate Mode is the Semi-Annual Rate, the Term Rate or the Fixed Rate) prior to the date fixed for redemption, such redemption notice shall be given by (i) registered or certified mail, postage prepaid, (ii) electronic notice or (iii) overnight delivery service, to the following securities depository:

The Depository Trust Company  
55 Water Street  
New York, New York 10041  
Facsimile transmission: (212) 709-1706

(ii) At least 16 days (31 days if the Interest Rate Mode is the Semi-Annual Rate, the Term Rate or the Fixed Rate before the date fixed for redemption, such redemption notice shall be given by (i) registered or certified mail, postage prepaid, or (ii) overnight delivery service, to two of the following services as may be selected by the Bond Registrar in its sole discretion (or, if such services are no longer in existence, to such other information service of national recognition that disseminates redemption information as is specified in writing by Company to the Bond Registrar)

- (A) Financial Information, Inc.'s  
Daily Called Bond Service  
30 Montgomery Street, 10th Floor  
Jersey City, New Jersey 07302  
Attention: Editor;
- (B) Kenny Information Service's "Called Bond Service"  
55 Broad Street, 28th Floor  
New York, New York 10004;
- (C) Interactive Data Corporation Bond Service  
22 Cortland Street  
New York, New York 10007  
Attention: Customer Service;
- (D) Moody's Municipal and Government  
99 Church Street, 8th Floor  
New York, New York 10007  
Attention: Municipal News Report; or



(E) Standard & Poor's Called Bond Record  
25 Broadway, 3rd Floor  
New York, New York 10004.

(iii) In undertaking the requirements of this subsection (b), the Bond Registrar does so as a courtesy to the institutions listed herein and the Bond Registrar shall not incur any liability hereunder or to any person or entity as a result of the failure to provide such notice to any such institution or as a result of any defect therein.

(c) All 2005 Series A Bonds, or portions thereof, so called for redemption shall cease to bear interest on the specified redemption date, provided funds for their redemption are on deposit with the Paying Agent at that time, and shall no longer be considered Outstanding under the Indenture.

Section 4.10. 2005 Series A Bonds Redeemed in Part. Any 2005 Series A Bond which is to be redeemed only in part shall be surrendered at a place stated for the surrender of 2005 Series A Bonds called for redemption in the notice provided for in Section 4.09 (with due endorsement by, or a written instrument of transfer in form satisfactory to the Bond Registrar duly executed by, the Registered Owner thereof or his attorney duly authorized in writing) and Issuer shall execute and the Bond Registrar shall authenticate and deliver to the Registered Owner of such 2005 Series A Bond without service charge, a new 2005 Series A Bond or 2005 Series A Bonds, of any Authorized Denomination as requested by such Registered Owner in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the 2005 Series A Bond so surrendered.

## ARTICLE V

### GENERAL COVENANTS

Section 5.01. Payment of Principal, Premium, if any, and Interest. Issuer covenants that it will duly and punctually pay or cause to be paid the principal of, premium, if any, and interest on every 2005 Series A Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in said 2005 Series A Bonds according to the true intent and meaning thereof, but solely and only from the payments, revenues and receipts specifically assigned herein for such purposes.

Section 5.02. Performance of Covenants; Issuer. Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions required to be performed by it and contained in this Indenture, in any and every 2005 Series A Bond executed, authenticated and delivered hereunder and in all of its proceedings pertaining hereto. Issuer represents, warrants and covenants that it is duly authorized under the Constitution and laws of the Commonwealth of Kentucky, including particularly and without limitation the Act, to issue the 2005 Series A Bonds authorized hereby and to execute this Indenture, to assign the Agreement and amounts payable under the Agreement, and to assign the payments and amounts hereby assigned in the manner and to the extent herein set forth; that all action on its part for the issuance of the 2005 Series A Bonds and the execution and delivery of this Indenture will be

duly and effectively taken, and that the 2005 Series A Bonds in the hands of the Bondholders are and will be valid and enforceable obligations of Issuer according to the terms thereof and hereof.

Section 5.03. Instruments of Further Assurance. Issuer covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and transfers as Trustee may reasonably require for the better and more effectual assignment unto Trustee all and singular the payments, revenues and other amounts payable under the Agreement, and any other income and other moneys assigned hereby as security for the payment of the principal of and interest and premium, if any, on the 2005 Series A Bonds. Issuer further covenants that it will not sell, convey or otherwise dispose of any part of the Trust Estate or create or suffer to be created any lien, encumbrance or charge upon the Trust Estate, including without limitation its interest in the revenues and other amounts payable under the Agreement or any other income therefrom except the lien and charge secured hereby.

Section 5.04. Recordation; Financing Statements.

(a) Issuer covenants that it will cooperate with Company and Trustee, to the end that the Agreement, this Indenture and all supplements and amendments hereto and thereto, as well as such other security agreements, financing statements and all supplements thereto and other instruments as may be required from time to time to be kept, will be recorded and filed in such manner and in such places as may from time to time be required by law in order to fully preserve and protect the security of the Bondholders and the rights of Trustee hereunder.

(b) After the execution and delivery of this Indenture and the execution and delivery of the 2005 Series A Bonds, the Company will deliver appropriate data and information in respect of the filing of any necessary UCC-1 statements necessary to establish the effectiveness and the perfection of the lien of this Indenture, and reciting the details of such action. Thereafter, every five years, as appropriate, the Company will cause to be filed continuation statements for the purpose of maintaining the effectiveness or perfection of such lien.

Section 5.05. Rights under Agreement. The Agreement, a duly executed counterpart of which has been filed with Trustee, sets forth the covenants and obligations of Issuer and Company, including provisions that subsequent to the issuance of 2005 Series A Bonds and prior to their payment in full or provision for payment thereof in accordance with the provisions hereof the Agreement may not be effectively amended, changed, modified, altered or terminated without the concurring written consent of Trustee. Reference is hereby made to the Agreement for a detailed statement of said covenants and obligations. Issuer agrees that Trustee in its name or, to the extent permitted by law, in the name of Issuer, may enforce all rights of Issuer and all obligations of Company under and pursuant to the Agreement for and on behalf of the Bondholders, whether or not Issuer is in default hereunder.

Section 5.06. General Compliance with All Duties. Issuer shall faithfully and punctually perform all duties with reference to the 2005 Series A Bonds required by the Constitution and laws of the Commonwealth of Kentucky, and by the terms and provisions of this Indenture.

Section 5.07. Compliance with Conditions Precedent. Upon the date of issuance of any of the 2005 Series A Bonds, all conditions, acts and things required by the Act or by this Indenture to exist, to have happened or to have been performed precedent to or in the issuance of such 2005 Series A Bonds, shall exist, shall have happened and shall have been performed, or will have happened or been performed, and such 2005 Series A Bonds shall be within every debt and other limit prescribed by law.

Section 5.08. Extension of Payment of 2005 Series A Bonds. Issuer shall not directly or indirectly extend or assent to the extension of the maturity of any of the 2005 Series A Bonds or the time of payment or claims for interest (i) by the purchase or funding of such 2005 Series A Bonds or claims for interest, (ii) by entering into any agreement with any Bondholder, whether written or oral, or (iii) by any other arrangement or device which has as its goal or effect the purchase, compromise or extension, otherwise than as provided hereby, of any 2005 Series A Bond maturity or interest thereon, and in case the maturity of any of the 2005 Series A Bonds or the time for payment of any such claims for interest shall be extended, such 2005 Series A Bonds or claims for interest so extended shall not be entitled in case of any event of default under this Indenture to the benefit of this Indenture or to any payment out of any assigned assets or funds (except funds held in trust for the payment of particular 2005 Series A Bonds or claims for interest pursuant to this Indenture) held by Trustee except subject to the prior payment of the principal of all 2005 Series A Bonds issued and outstanding, the maturity of which has occurred and has not been extended, and of such portion of the accrued interest on the 2005 Series A Bonds as shall not be represented by such claims for interest.

Section 5.09. Covenants Respecting Arbitrage. Based upon the covenants made by the Company in the Agreement, and in reliance thereon, Issuer covenants that no use will be made of the proceeds of the 2005 Series A Bonds or any funds reasonably expected to be used to pay the 2005 Series A Bonds which will cause the 2005 Series A Bonds or any of them to be arbitrage bonds within the meaning of Section 148 of the Code or which would result in the loss of the exclusion of the interest on such 2005 Series A Bonds from gross income for federal income tax purposes.

Section 5.10. Books and Records. Based upon the covenants made by the Company in the Agreement, and in reliance thereon, Issuer covenants that so long as any 2005 Series A Bonds are outstanding and unpaid, or, if later, so long as required in order to comply with the provisions of the Code, it will keep, or cause to be kept, proper books of records and accounts, relating to its financial dealings under this Indenture and the Agreement. Such books shall at all times be open for any lawful purpose to the inspection of such accountants or other agents as Trustee may from time to time designate.

Section 5.11. Other Covenants. Issuer (in reliance, upon correlative covenants and representations made by Company in the Agreement) further represents and covenants as follows:

(a) Issuer is a public body corporate and politic duly created and existing as a de jure political subdivision under the Constitution and laws of the Commonwealth of Kentucky and is not in violation of any provisions of any laws of the Commonwealth of Kentucky relevant to the transactions contemplated hereby or in connection with the issuance of the 2005 Series A Bonds.

(b) Issuer has full and complete legal power and authority to execute and deliver this Indenture and the Agreement and to issue and deliver the 2005 Series A Bonds, and has by proper governmental action of its Metro Council, acting as its duly constituted legislative authority, duly authorized the execution and delivery of the Agreement, this Indenture and the 2005 Series A Bonds.

(c) Within the meaning of the Code at least ninety percent (90%) of the proceeds (including investment proceeds)) of the issue of the Refunded 1995 Series A Bonds which financed or refinanced the Project were used to provide air pollution control facilities constituting the Project and the original use of the facilities constituting the Project commenced with the Company. All of such air pollution control facilities consist of either land or of property of a character subject to the allowance for depreciation as provided in Section 167 of the Code.

(d) The average maturity of the 2005 Series A Bonds will not exceed one hundred twenty percent (120%) of the average reasonably expected remaining economic life of the air pollution control facilities currently refinanced by the net proceeds of the 2005 Series A Bonds.

(e) Within the meaning of Section 149 of the Code, no portion of the payment of principal or interest with respect to the 2005 Series A Bonds or the Agreement or the Refunded 1995 Series A Bonds were, or shall be guaranteed, directly or indirectly, by the United States or any agency or instrumentality thereof.

(f) No portion of the proceeds from the sale of the 2005 Series A Bonds will be deposited to the account of any reasonably required reserve or replacement fund or used to pay (i) any costs of issuance of the 2005 Series A Bonds or (ii) any redemption premium or accrued interest on the Refunded 1995 Series A Bonds, but such proceeds will be applied and used solely and exclusively to refund, pay and discharge the outstanding principal amount of the Refunded 1995 Series A Bonds within 90 days of the date of issuance of the 2005 Series A Bonds.

(g) Issuer will use its best efforts to cause Company to maintain at least two ratings on the 2005 Series A Bonds.

(h) Issuer and Company need not comply with the covenants in (c) through (f), inclusive, of this Section 5.11, if and to the extent that each of them receives a written opinion of Bond Counsel that such failure to comply will not affect adversely the exclusion of interest on the 2005 Series A Bonds from gross income for federal income tax purposes.

## **ARTICLE VI**

### **REVENUES AND FUNDS**

Section 6.01. Source of Payment of 2005 Series A Bonds. The 2005 Series A Bonds herein authorized and all payments by Issuer hereunder are not and shall never become general obligations of Issuer, but are special and limited obligations payable solely and only from revenues and receipts under the Agreement and as authorized by the Act and provided herein; provided, however, that moneys in the Rebate Fund created by Section 6.06 of this Indenture shall be used solely and only as provided in such Section 6.06 and for no other purposes whatsoever and that moneys in the Purchase Fund created by Section 3.03 of this Indenture shall

be used solely and only as provided in such Section 3.03 and Section 6.09, respectively, and for no other purposes whatsoever.

The proceeds of the 2005 Series A Bonds will be loaned to Company by Issuer pursuant to the Agreement. The payments made pursuant to the Agreement by Company (other than pursuant to Section 5.1(b), (c) and (d) of the Agreement) are to be remitted directly to Trustee for the account of Issuer and deposited in the Bond Fund (and in the Rebate Fund, if appropriate). Such payments shall be made at such times and in such amounts so as to insure, and are assigned to secure, the prompt payment of the principal of, premium, if any, and interest on the 2005 Series A Bonds and compliance by Company with the covenants set forth in the Agreement.

Section 6.02. Creation of Bond Fund. There is hereby created by Issuer and ordered established with Trustee a trust fund to be designated “Louisville/Jefferson County Metro Government, Kentucky, Pollution Control Revenue Bond Fund, 2005 Series A (Louisville Gas and Electric Company Project),” which shall be used and applied to pay the principal of, premium, if any, and interest on the 2005 Series A Bonds.

Section 6.03. Payments into Bond Fund. There shall be deposited into the Bond Fund all accrued interest, if any, received at the time of the original issuance and delivery of any 2005 Series A Bonds. In addition, there shall be deposited into the Bond Fund, as and when received, (a) all payments made pursuant to Section 5.1(a) of the Agreement and (b) all other moneys received by Trustee under and pursuant to any of the provisions of the Agreement or this Indenture which are required to be deposited into the Bond Fund, or which are accompanied by written directions that such moneys are to be paid into the Bond Fund. Issuer hereby covenants and agrees that so long as any of the 2005 Series A Bonds issued hereunder are outstanding it will deposit, or cause to be paid to Trustee for deposit in the Bond Fund for its account, sufficient sums from payments, revenues and receipts under and pursuant to the Agreement promptly to meet and pay the principal of, premium, if any, and interest on the 2005 Series A Bonds as the same become due and payable, and to this end Issuer covenants and agrees that, should there be an event of default under the Agreement, Issuer shall fully cooperate with Trustee and with the Bondholders to the end of fully protecting the rights and security of the Bondholders. Nothing herein shall be construed as requiring Issuer to operate the Project or to use any funds or revenues from any source whatsoever other than payments, funds and revenues derived from or in accordance with the Agreement.

Section 6.04. Use of Moneys in Bond Fund. All accrued interest on the 2005 Series A Bonds, if any, at the time of their original issuance will be paid from the amounts deposited in the Bond Fund pursuant to the first sentence of Section 6.03 hereof. Except as provided in Section 6.07, Section 6.09 and Section 7.01 hereof, moneys in the Bond Fund shall be used solely and only for the payment of the principal of, premium, if any, and interest on the 2005 Series A Bonds as the same shall become due and payable at maturity, upon redemption or otherwise, and for the payment of the reasonable fees and expenses to which Trustee, Bond Registrar, Tender Agent, Authentication Agent, any Paying Agent or Issuer is entitled pursuant to this Indenture or the Agreement.

Section 6.05. Custody of Bond Fund. The Bond Fund shall be in the custody and control of Trustee but shall be held in the name of Issuer. Issuer hereby authorizes and directs in

writing Trustee to withdraw sufficient funds from the Bond Fund to pay the principal of, premium, if any, and interest on the 2005 Series A Bonds and any other amounts payable from the Bond Fund, as the same become due and payable and, if applicable, to make said funds so withdrawn available to any Paying Agent for the purpose of paying said principal of, premium, if any, and interest, which authorization and direction Trustee hereby accepts.

Section 6.06. Rebate Fund; Operation of Rebate Fund.

(a) There is hereby created and ordered maintained as a separate account in the custody and control of Trustee a fund to be designated “Louisville/Jefferson County Metro Government, Kentucky, Pollution Control Revenue Bond Rebate Fund, 2005 Series A (Louisville Gas and Electric Company Project).” Any provision hereof to the contrary notwithstanding, amounts credited to the Rebate Fund shall be free and clear of any lien created by this Indenture.

(b) Within 15 days after the end of each Computation Period (but only to the extent that any Excess Earnings have been earned during such period) and within 15 days after the payment in full of all outstanding 2005 Series A Bonds (but only to the extent that any Excess Earnings have been earned during such period), (a) Company shall cause to be calculated the amount of Cumulative Excess Earnings as of the end of that Computation Period or the date of such payment and shall notify Trustee in writing of that amount and (b) Trustee shall notify Company of the amount then on deposit in the Rebate Fund. In order for Company to make or cause to be made such computations, Trustee shall make available to Company, promptly upon request, the following information: (a) as to interest and principal, the total amount of interest paid on the 2005 Series A Bonds, the principal amount of 2005 Series A Bonds outstanding during such Computation Period and the amount and date of any payments of principal of 2005 Series A Bonds during such Computation Period; (b) the amount, interest rate and nature of investments held by Trustee hereunder as of the end of such Computation Period and the amount and date of the sale of any investments; (c) the total amount of earnings on such investments during such Computation Period; (d) the total amount of earnings on deposit in the Bond Fund and the Rebate Fund; (e) the amount of deposits (including interest earned) to and disbursements from the Rebate Fund; and (f) such other information reasonably available to Trustee which may be necessary for Company to perform or cause to be performed the computations required by Section 148(f) of the Code and Treasury Regulations thereunder. The Company shall inform the Trustee of the commencement and end of each Computation Period.

(c) If, on any such Computation Date, the amount then on deposit in the Rebate Fund is in excess of the Cumulative Excess Earnings, Trustee, at the written direction of Company, shall forthwith pay that excess amount to Company. If, on any such Computation Date, the amount then on deposit in the Rebate Fund is less than the Cumulative Excess Earnings, Company shall, within 5 days after receipt of the aforesaid notice from Trustee, pay to Trustee for deposit in the Rebate Fund an amount sufficient to cause the Rebate Fund to contain an amount equal to the Cumulative Excess Earnings. Within 30 days after each Computation Period, Trustee, at the written direction and instruction of Company, acting on behalf of Issuer, shall pay to the United States in accordance with Section 148(f) of the Code from the moneys then on deposit in the Rebate Fund an amount equal to 95% (or such greater percentage not in excess of 100% as Company may direct Trustee to pay) of the Cumulative Excess Earnings.

Within 30 days after the payment in full of all outstanding 2005 Series A Bonds, Trustee, at the written direction and instruction of Company, shall pay to the United States in accordance with Section 148(f) of the Code from the moneys then on deposit in the Rebate Fund an amount equal to 100% of the Cumulative Excess Earnings as of the date of such payment and any moneys remaining in the Rebate Fund following such payment shall be paid to Company.

(d) Trustee shall keep such records of the computations made pursuant to this Section as are requested of it by the Company.

(e) Trustee may rely exclusively and conclusively on a certificate of Company or advice of counsel provided to the Trustee by Company with respect to compliance with the aforesaid requirements. If any action is necessary to be taken by Trustee in connection with compliance, such certificate or advice shall specifically advise Trustee as to what action needs to be taken and Trustee agrees to take said action. The responsibility of Trustee shall be solely to comply with such certification or advice of counsel and Trustee shall have no liability for any determination of taxability or other adverse consequence resulting from any action taken pursuant hereto or thereto.

(f) Each payment of an installment of Excess Earnings required to be paid to the United States of America shall be paid to and filed with the Internal Revenue Service Center, Ogden, Utah 84201. Each such payment shall be accompanied by a copy of Form 8038-T (Arbitrage Rebate) filed with respect to the Bonds. Notwithstanding the foregoing, disbursements of amounts in the Rebate Fund to the United States of America shall at all times be made in amounts and at the times determined at the written direction of the Company pursuant to then applicable Treasury Regulations.

(g) Issuer, Trustee and Company need not comply with the provisions of this Section 6.06 if and to the extent that they receive an opinion of Bond Counsel that such failure to comply will not affect adversely the exclusion of interest on the 2005 Series A Bonds from gross income for federal income tax purposes.

Section 6.07. Non-presentment of 2005 Series A Bonds. In the event any 2005 Series A Bond shall not be presented for payment when the principal thereof becomes due, either at maturity, or at the date fixed for redemption thereof, or otherwise, if funds sufficient to pay such 2005 Series A Bond shall have been deposited with Trustee for the benefit of the holder or holders thereof, all liability of Issuer to the holder thereof for the payment of such 2005 Series A Bond shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of Trustee to hold such funds, without liability for interest thereon, for the benefit of the holder of such 2005 Series A Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Indenture on, or with respect to, said 2005 Series A Bond. Trustee's obligation to hold such funds shall continue for a period of two years following the date on which the principal of such 2005 Series A Bonds has become due, whether at maturity, or at the date fixed for redemption thereof, or otherwise, at which time Trustee shall, upon written request of Company, surrender any remaining funds so held to Company (except moneys and funds in the Rebate Fund) provided, however, that before Trustee shall be required to so surrender such funds, Trustee shall, at the expense of Company, cause notice to be given in the manner specified in Section 14.04 hereof to the Registered Owners of such 2005 Series A

Bonds to the effect that such money remains unclaimed and that, after a date specified therein, which shall not be less than thirty (30) days from the date of such notice, any unclaimed balance of such moneys then remaining will be paid to Company. After the payment of such unclaimed moneys to Company, the Registered Owners of such 2005 Series A Bonds shall thereafter look only to Company for the payment thereof, and all liability of Issuer and Trustee and any Paying Agent with respect to such moneys shall thereupon cease.

Section 6.08. Moneys to be Held in Trust. All moneys required to be deposited with or paid to Trustee for account of the Bond Fund under any provision of this Indenture shall be held by Trustee in trust, and except for moneys deposited with or paid to Trustee for the redemption of 2005 Series A Bonds, notice of the redemption for which has been duly given, shall, while held by Trustee, constitute part of the Trust Estate and be subject to the security interest created hereby.

Section 6.09. Repayment to Company from Bond Fund. Any amounts remaining in the Bond Fund after payment in full of the 2005 Series A Bonds, the reasonable fees, charges and expenses of Trustee, Bond Registrar, Paying Agent and Issuer and all other amounts required to be paid hereunder, shall be paid to Company upon the expiration or upon the sooner termination of the term of the Agreement as provided in Article XI of the Agreement.

## **ARTICLE VII**

### **INVESTMENTS**

Section 7.01. Investment of Bond Fund Moneys, Rebate Fund Moneys and Purchase Fund Moneys. Any and all moneys held as part of the Bond Fund and the Rebate Fund shall be invested or reinvested by Trustee in accordance with the provisions of and limitations imposed by Section 2.2(j), (k) and (l) and Section 4.3 of the Agreement and only as directed in writing by the Company. Any obligations acquired by Trustee as a result of such investment or reinvestment shall be held by or under the control of Trustee. Trustee shall always maintain a separate and discrete account in respect of the Rebate Fund and no commingling thereof with other funds and accounts shall be permitted under any circumstances. All moneys invested in respect of a particular fund shall be deemed at all times a part of the fund for which such investments were made, and the interest accruing thereon and any profit realized from such investments shall be credited pro rata to such fund, and any loss resulting from such investment shall be charged pro rata to such fund. Trustee shall sell and reduce to cash a sufficient amount of applicable investments whenever the cash balance in the Bond Fund is insufficient to pay the principal of, premium, if any, and interest on the 2005 Series A Bonds or any other amount payable from the Bond Fund when due or whenever the cash balance in the Rebate Fund is insufficient to pay any required disbursement from the Rebate Fund, respectively. The Rebate Fund shall never be commingled with any other fund or account. The Purchase Fund shall at all times be held uninvested. The Trustee will not be liable for any investment loss (including any loss upon a sale of any investment), fee, tax or other charge in respect of any investments, reinvestments or liquidation of investments made pursuant to this Indenture. The Trustee shall have no liability in respect of losses incurred as a result of liquidation of any Permitted Investments prior to stated maturity or failure of the Company to provide timely written investment direction.



Section 7.02. Arbitrage. Issuer will, prior to the issuance and delivery of the 2005 Series A Bonds, prepare and deliver to Trustee a certificate to support the conclusion that the 2005 Series A Bonds will not be “arbitrage bonds” within the meaning of Section 148 of the Code. In making and delivering such certificate, Issuer may rely upon certificates of Company setting forth facts, circumstances and reasonable expectations which are particularly within the knowledge of Company.

Upon the basis of the certificates to be delivered by Issuer as herein described in connection with the issuance of the 2005 Series A Bonds, it is not expected that the proceeds of the 2005 Series A Bonds will be used in any manner that would cause the 2005 Series A Bonds to be arbitrage bonds under the Code and regulations promulgated thereunder. To the best knowledge and belief of Issuer, there are no facts, estimates or circumstances that would materially change the foregoing conclusion. Trustee will at all times discharge its duties in respect of the Rebate Fund as provided by Section 6.06 hereof.

Section 7.03. Tax Covenants.

(a) In this Section 7.03 unless a different meaning clearly appears from the context:

(i) Reference to a provision of the Code by number or letter includes reference to any law hereafter enacted as amendment to or substitute for such provision;

(ii) Words which are used herein and in the Code shall have the meaning given to such words in or pursuant to said Code.

(iii) The covenants set forth in clauses (b), (c) and (d) of this Section are made in reliance upon the covenants of Company set forth in the Agreement and other documents to which reference is made.

(b) Issuer shall at all times do and perform all acts and things permitted by law and necessary or desirable in order to assure that interest paid by Issuer on the 2005 Series A Bonds shall, for the purposes of federal income taxation, be excluded from gross income; provided, however, that Issuer shall not be in default of this covenant solely by reason of the purchase of any 2005 Series A Bonds by a “substantial user” or a “related person” as such terms are used in Section 147(a) of the Code.

(c) Issuer shall not permit at any time or times any of the proceeds of the 2005 Series A Bonds to be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause any 2005 Series A Bond to be an “arbitrage bond” as defined in Section 148(a) of the Code as then in effect unless, under any valid provision of law hereafter enacted (i) such action would not cause arbitrage bond status to occur, and (ii) the interest paid by Issuer on the 2005 Series A Bonds shall be excludable from the gross income of a recipient thereof for federal income tax purposes without regard to compliance with the provisions of Section 148 of the Code.

(d) In order to assure compliance with this Section 7.03, thereby better securing and protecting the 2005 Series A Bonds and Issuer, Issuer (subject to the provisions of Section 6.06 hereof) from the date of adoption of this Indenture covenants that it shall not:

(i) except during any valid temporary period or as otherwise permitted by the Code, make or cause to be made any investment of 2005 Series A Bond proceeds that produces a yield in excess of such applicable maximum yield with respect to the 2005 Series A Bonds as may be permitted by the Code, and

(ii) except during any valid temporary period or as otherwise permitted by the Code, invest or cause Trustee to invest moneys in any fund created by this Indenture in investment obligations that produce a yield in excess of such applicable maximum yield with respect to the 2005 Series A Bonds as may be permitted by the Code.

## **ARTICLE VIII**

### **DISCHARGE OF INDENTURE**

If Issuer shall pay or cause to be paid, or there shall be otherwise paid or provision for payment made to or for the Registered Owners of the 2005 Series A Bonds, the principal, premium, if any, and interest due or to become due thereon at the times and in the manner stipulated therein, and if Issuer shall not then be in default in any of the other covenants and promises in the 2005 Series A Bonds and in this Indenture expressed as to be kept, performed and observed by it or on its part, and shall pay or cause to be paid to Trustee and any Paying Agents all sums of money due or to become due according to the provisions hereof, then these presents and the estate and rights hereby granted shall cease, determine and be void, whereupon Trustee shall cancel and discharge the lien of this Indenture and release, assign and deliver unto Issuer any and all the estate, right, title and interest in and to any and all rights assigned to Trustee or otherwise subject to the lien of this Indenture, except amounts in the Bond Fund required to be paid to Company under Section 6.09 hereof and except moneys or securities held by Trustee for the payment of the principal of, premium, if any, and interest on the 2005 Series A Bonds and except for any moneys and investments in the Rebate Fund, which shall be administered in accordance with Section 6.06 hereof.

Any 2005 Series A Bond shall be deemed to be paid within the meaning of this Article and for all purposes of this Indenture when (a) payment of the principal of and the applicable redemption premium, if any, on such 2005 Series A Bond, plus interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided by irrevocably depositing with Trustee, in trust, and Trustee shall have irrevocably set aside exclusively for such payment, (1) moneys sufficient to make such payment or (2) Governmental Obligations, as defined hereinafter in this Article, maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payment, and (b) all proper fees, compensation and expenses of Trustee, Authenticating Agent, Bond Registrar and any Paying Agent pertaining to the 2005 Series A Bonds with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of Trustee. At such time as a 2005 Series A Bond shall be deemed to be paid hereunder, as aforesaid, it shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of any such payment from such moneys or Governmental Obligations and except that it may continue to be transferred and exchanged in accordance with ARTICLE II of this Indenture.

Notwithstanding the foregoing, no deposit under clause (a)(ii) of the immediately preceding paragraph shall be deemed a payment of such 2005 Series A Bonds as aforesaid until the earlier of: (1) the date on which proper notice of redemption of such 2005 Series A Bonds shall have been previously given in accordance with ARTICLE IV of this Indenture, or in the event said 2005 Series A Bonds are not to be redeemed prior to their maturity or are not to be redeemed within the next succeeding 30 days, the date on which Company shall have given Trustee on behalf of Issuer, in form satisfactory to Trustee, irrevocable instructions to notify, as soon as practicable, the Registered Owners of the 2005 Series A Bonds, in accordance with ARTICLE IV hereof, that the deposit required by (a)(ii) above has been made with Trustee and that said 2005 Series A Bonds are deemed to have been paid in accordance with this Article and stating such maturity or redemption date upon which moneys are to be available for the payment of said 2005 Series A Bonds; and (2) the maturity of such 2005 Series A Bonds.

Any moneys so deposited with Trustee as provided in this Article may at the written direction of Company also be invested and reinvested in Governmental Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from all Governmental Obligations in the hands of Trustee pursuant to this Article which is not required for the payment and discharge of the 2005 Series A Bonds and interest and premium thereon with respect to which such moneys shall have been so deposited, shall, following the actual payment and discharge of any such 2005 Series A Bonds be transferred to and deposited in the Bond Fund for use and application as are other moneys deposited in that fund or if this Indenture has been discharged and all 2005 Series A Bonds issued under this Indenture have been paid, such moneys shall be paid to Company.

Issuer hereby covenants that no deposit will be made or accepted hereunder and/or no use made of any such deposit which would cause the 2005 Series A Bonds to be treated as arbitrage bonds within the meaning of Section 148 of the Code.

For the purposes of this Indenture, the term "Governmental Obligations" shall mean any of the following which are non-callable and which at the time of investment are legal investments under the laws of the Commonwealth of Kentucky for the moneys proposed to be invested therein: (i) direct general obligations of, or obligations the payment of the principal and interest of which are unconditionally guaranteed by, the United States of America; (ii) Refcorp Interest Strips, CATS, TIGRS, STRPS or defeased municipal bonds rated AAA by S&P or Aaa by Moody's (or any combination of the foregoing) which are payable in full as to principal, interest and premium, if any, solely and only from irrevocable trusts or escrow accounts pledged solely and only to such purposes and consisting only of obligations of the nature described in clause (i) of this paragraph; (iii) bonds, debentures, or notes issued by any of the following federal agencies: Bank for Cooperatives, Federal Land Banks, or National Mortgage Association (including Participation Certificates); or (iv) Public Housing Authority Bonds, Temporary Notes, Project Notes or Preliminary Loan Notes, fully secured by contracts with the United States.

Notwithstanding any provision of any other Article of this Indenture which may be contrary to the provisions of this Article, all moneys or Governmental Obligations set aside and held in trust pursuant to the provisions of this Article for the payment of 2005 Series A Bonds (including interest and premium thereon, if any) shall be applied to and used solely for the

payment of the particular 2005 Series A Bonds (including interest and premium thereon, if any) with respect to which such moneys and Governmental Obligations have been so set aside in trust.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the Governmental Obligations deposited pursuant to this ARTICLE VIII or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of Outstanding 2005 Series A Bonds.

Anything in ARTICLE XII hereof to the contrary notwithstanding, if moneys or Governmental Obligations have been deposited or set aside with Trustee pursuant to this Article for the payment of 2005 Series A Bonds and such 2005 Series A Bonds shall not have in fact been actually paid in full, no amendment to the provisions of this Article shall be made without the consent of the holder of each 2005 Series A Bond affected thereby.

Notwithstanding the foregoing, those provisions relating to the purchase of 2005 Series A Bonds, the maturity of 2005 Series A Bonds, interest payments and dates thereof, and the purchase provisions, and the Trustee's remedies with respect thereto, and provisions relating to exchange, transfer and registration of 2005 Series A Bonds, replacement of mutilated, destroyed, lost or stolen 2005 Series A Bonds, the safekeeping and cancellation of 2005 Series A Bonds, non-presentment of 2005 Series A Bonds, the holding of moneys in trust, and repayments to the Company from the Bond Fund and the duties of the Trustee in connection with all of the foregoing and the fees, expenses and indemnities of the Trustee, shall remain in effect and shall be binding upon the Trustee, the Issuer, the Company and the Bondholders notwithstanding the release and discharge of the lien of this Indenture.

## **ARTICLE IX**

### **DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDHOLDERS**

Section 9.01. Defaults; Events of Default. If any of the following events occur, subject to the provisions of Section 9.11 and Section 9.12 hereof, it is hereby defined as and declared to be and to constitute an "event of default":

(a) Default in the due and punctual payment of any installment of interest on any 2005 Series A Bond (i) if such 2005 Series A Bonds bears interest at other than the Fixed Rate, and continuation of such default for a period of one (1) Business Day from due date and (ii) if such 2005 Series A Bond bears interest at the Fixed Rate, within and continuation of such default for a period of five (5) Business Days from date due;

(b) Default in the due and punctual payment of the principal of, or premium, if any, on any 2005 Series A Bond, whether at the stated maturity thereof, or upon proceedings for redemption, or upon the maturity thereof by declaration or if payment of the purchase price of any 2005 Series A Bond required to be purchased pursuant to Section 3.01 is not made when such payment has become due and payable, provided that no event of default shall have occurred in respect of failure to receive such purchase price for any Series 2005 Series A Bond if the Company shall have complied with Section 3.05(d) hereof;

(c) Default in the performance or observance of any other of the covenants, agreements or conditions on the part of Issuer in this Indenture or in the 2005 Series A Bonds continued for a period of thirty (30) days after written notice by Trustee, unless such failure is instituted within such 30-day period and is capable of being cured and corrective action in respect of such failure is being diligently pursued; or

(d) The occurrence of an “event of default” under Section 9.1 of the Agreement.

Upon the occurrence of any Event of Default under this Section 9.01, the Trustee, upon a Responsible Officer having been given or having obtained actual knowledge of such Event of Default, shall immediately give Electronic Notice of that Event of Default to the Issuer, the Paying Agent, the Tender Agent, and, if applicable, the Auction Agent and the Remarketing Agents.

Subject to Section 9.12, no default under subsection (c) above shall constitute an Event of Default until actual written notice is given to the Issuer and the Company by the Trustee, or to the Issuer, the Company and the Trustee by the registered owners holding not less than 25% in aggregate principal amount of all 2005 Series A Bonds Outstanding and the Issuer and the Company shall have had thirty days after such notice to correct the default and failed to do so. If the default is such that it cannot be corrected within the applicable period but is capable of being cured, it will not constitute an Event of Default if corrective action is instituted by Issuer or Company, within the applicable period and diligently pursued until the default is corrected.

#### Section 9.02. Acceleration.

(a) Upon the occurrence of an event of default, Trustee may, and upon the written request of the holders of not less than 25% in aggregate principal amount of 2005 Series A Bonds then Outstanding and receipt of indemnity reasonably satisfactory to the Trustee shall, by immediate notice in writing delivered to Issuer and Company, declare the principal of all 2005 Series A Bonds then outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable; anything in this Indenture or the 2005 Series A Bonds to the contrary notwithstanding, subject however, to the provisions of Section 9.10 hereof. Upon any declaration of acceleration hereunder Issuer and Trustee shall immediately declare all payments under the Agreement to be immediately due and payable as liquidated damages in accordance with Section 9.2 of the Agreement.

(b) Upon the occurrence of an event of default, Trustee, before or after declaring the principal of the 2005 Series A Bonds immediately due and payable, may, and upon the written request of the holders of not less than 25% in aggregate principal amount of 2005 Series A Bonds then Outstanding and receipt by the Trustee of indemnity reasonably satisfactory to it shall, enforce each and every right granted to Issuer under the Agreement for the benefit of the Bondholders. In exercising such rights and the rights given Trustee under this ARTICLE IX, Trustee shall take such action as, in the judgment of Trustee applying the standards described in Section 10.01(a) hereof, would best serve the interests of the Bondholders.

Section 9.03. Other Remedies; Rights of Bondholders. Upon the occurrence of an event of default under this Indenture, Trustee may proceed to pursue any available remedy by suit at law or in equity to enforce the payment of the principal of, premium, if any, and interest on the 2005 Series A Bonds then outstanding, including, without limitation, the following:

(a) By mandamus, or other suit, action or proceeding at law or in equity, enforce all rights of the Bondholders, including the right to require Issuer to enforce any rights under the Agreement and to require Issuer to carry out any provisions of this Indenture for the benefit of the Bondholders and to perform its duties under the Act;

(b) Bring suit upon the 2005 Series A Bonds;

(c) By action or suit in equity require Issuer to account as if it were the trustee of an express trust for the Bondholders; and

(d) By action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders.

Any judgment against Issuer shall be enforceable only against the specific assigned payments, funds and accounts in the custody of Trustee. There shall not be authorized any deficiency judgment against any assets of, or the general credit of, Issuer.

If an event of default shall have occurred, and if requested so to do by the holders of not less than 25% in aggregate principal amount of all 2005 Series A Bonds then Outstanding and being indemnified as provided in Section 10.01(1) hereof, Trustee shall be obligated to exercise one or more of the rights and powers conferred by this Section and by Section 9.02 hereof, as Trustee, being advised by counsel, shall deem most expedient in the interests of the Bondholders.

No remedy by the terms of this Indenture conferred upon or reserved to Trustee (or to the Bondholders) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to Trustee or to the Bondholders hereunder or now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any default or event of default shall impair any such right or power or shall be construed to be a waiver of any such default or event of default or acquiescence therein; and every such right and power may be exercised from time to time as often as may be deemed expedient.

No waiver of any default or event of default hereunder, whether by Trustee or by the Bondholders, shall extend to or shall affect any subsequent default or event of default or shall impair any right or remedies consequent thereon.

Section 9.04. Right of Bondholders to Direct Proceedings. Anything in this Indenture to the contrary notwithstanding, the holders of a majority in aggregate principal amount of 2005 Series A Bonds then outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings

hereunder; provided, that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture.

Section 9.05. Appointment of Receivers. Upon the occurrence of an event of default under this Indenture, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of Trustee and of the Bondholders under this Indenture, Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate and of the revenues, issues, earnings, income, products and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

Section 9.06. Waiver by Issuer. Upon the occurrence of an event of default under this Indenture, to the extent that such rights may then lawfully be waived, neither Issuer, nor the Commonwealth of Kentucky nor any political subdivision thereof, nor anyone claiming through or under any of them, shall set up, claim, or seek to take advantage of any appraisement, valuation, stay, extension or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement of this Indenture, and Issuer, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws.

Section 9.07. Application of Moneys. All moneys received by Trustee pursuant to any right given or action taken under the provisions of this Article or received by any Bondholder or receiver or like officer shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by Trustee or Paying Agent, and upon payment of any sums due and payable to the United States pursuant to Section 148(f) of the Code, be deposited in the Bond Fund and all moneys in the Bond Fund shall be applied, as follows:

(a) Unless the principal of all the 2005 Series A Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

FIRST - To the payment to the persons entitled thereto of all installments of interest then due on the 2005 Series A Bonds, in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege;

SECOND - To the payment to the persons entitled thereto of the unpaid principal of and premium, if any, on any of the 2005 Series A Bonds which shall have become due (other than 2005 Series A Bonds matured or called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, with interest on the principal of such 2005 Series A Bonds from the respective dates upon which they became due at one percent above the rate borne by the 2005 Series A Bonds (but in no event higher than the maximum rate permitted by law), until paid (with the same interest rate on overdue installments of premium and interest on such 2005 Series A Bonds to the extent permitted by law) and, if the amount available shall not be sufficient to pay in full 2005 Series A Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege; and

THIRD - To be held for the payment to the persons entitled thereto as the same shall become due of the principal of, premium, if any, and interest on the 2005 Series A Bonds which may thereafter become due either at maturity or upon call for redemption prior to maturity and, if the amount available shall not be sufficient to pay in full 2005 Series A Bonds due on any particular date, together with interest then due and owing thereon, payment shall be made ratably according to the amount of principal due on such date to the persons entitled thereto without any discrimination or privilege.

(b) If the principal of all the 2005 Series A Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the 2005 Series A Bonds (together with interest on overdue installments of principal and, to the extent permitted by law, interest, in each case at one percent above the highest rate borne by any 2005 Series A Bond, but in no event higher than the maximum rate permitted by law, until paid), without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any 2005 Series A Bond over any other 2005 Series A Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege.

(c) If the principal of all the 2005 Series A Bonds shall have been declared due and payable, and if such declarations shall thereafter have been rescinded and annulled under the provisions of this Article then, subject to the provisions of subsection (b) of this Section in the event that the principal of all the 2005 Series A Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of subsection (a) of this Section.

Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time, as Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever Trustee shall apply such funds, it shall fix the date (which shall be an interest payment date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal, premium and interest to be paid on such dates shall cease to accrue. Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date.

Whenever all principal of, premium, if any, and interest on all 2005 Series A Bonds have been paid under the provisions of this Section and all expenses and charges of Trustee and any Paying Agents have been paid, and all the liabilities of Company accrued under the Agreement have been paid, any balance remaining in the Bond Fund shall be paid to Company as provided in Section 6.09 hereof.

Section 9.08. Remedies Vested in Trustee. All rights of action (including the right to file proof of claims) under this Indenture or under any of the 2005 Series A Bonds may be enforced by Trustee without the possession of any of the 2005 Series A Bonds or the production thereof in any trial or proceedings related thereto and any such suit or proceeding instituted by Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiff or



defendants any holders of the 2005 Series A Bonds, and any recovery of judgment shall be for the equal and ratable benefit of the holders of the outstanding 2005 Series A Bonds.

Section 9.09. Rights and Remedies of Bondholders. No holder of any 2005 Series A Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless:

(a) a default has occurred of which Trustee has been notified as provided Section 10.01(h) hereof, or of which by said subsection it is deemed to have notice, nor unless

(b) such default shall have become an event of default and the holders of not less than 25% in aggregate principal amount of 2005 Series A Bonds then outstanding shall have made written request to Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in their own name or names, nor unless they have offered to Trustee indemnity as provided in Section 10.01(l) hereof, nor unless

(c) Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name within a reasonable time.

Such notification, request and offer of indemnity are hereby declared in every case at the option of Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more holders of the 2005 Series A Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by its, his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal and ratable benefit of the holders of all 2005 Series A Bonds then outstanding.

Nothing in this Indenture contained shall, however, affect or impair the right of any Bondholder to enforce the payment of the principal of, premium, if any, and interest on any 2005 Series A Bond at and after the maturity thereof, or the obligation of Issuer to pay the principal of, premium, if any, and interest on each of the 2005 Series A Bonds issued hereunder to the respective holders thereof at the time, place, from the source and in the manner expressed in the 2005 Series A Bonds.

Section 9.10. Termination of Proceedings. In case Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case Issuer and Trustee and the Bondholders shall, subject to any determination in such proceeding, be restored to their former positions and rights hereunder, and all rights, remedies and powers of Trustee shall continue as if no such proceedings had been taken.

Section 9.11. Waivers of Events of Default. The Trustee may in its discretion waive any default hereunder and its consequences and shall do so upon the written request of the holders of at least a majority in principal amount of all 2005 Series A Bonds then Outstanding.

The provisions of the preceding paragraph of this Section, however, are subject to the condition that if, after the principal of all 2005 Series A Bonds then outstanding shall have been declared to be due and payable as a result of a default hereunder, and before any judgment or decree for the appointment of a receiver or for the payment of the moneys due shall have been obtained or entered, (i) Company shall cause to be deposited with Trustee a sum sufficient to pay all matured installments of interest upon all 2005 Series A Bonds and the principal of and premium, if any, on any and all 2005 Series A Bonds which shall have become due otherwise than by reason of such declaration (with interest upon such principal and premium, if any, and overdue installment of interest, to the extent permitted by law, at the rate per annum which is one percent above the highest rate borne by any 2005 Series A Bond, but in no event higher than the maximum permitted by law, until paid), and such amounts as shall be sufficient to cover all expenses of Trustee in connection with such default and (ii) all defaults under this Indenture, other than nonpayment of principal of 2005 Series A Bonds which shall have become due by said declaration, shall have been remedied, then and in every such case, such default shall be deemed waived and such declaration and its consequences rescinded and annulled by Trustee by written notice to Issuer and Company which waiver, rescission and annulment shall be binding upon the holders of all 2005 Series A Bonds then outstanding; but no such waiver, rescission and annulment shall extend to or affect any subsequent default or impair any right or remedy consequent thereon.

Section 9.12. Notice of Defaults Under Section 9.01(c); Opportunity of Issuer and Company to Cure Such Defaults. Anything herein to the contrary notwithstanding, no default under Section 9.01(c) hereof shall constitute an event of default until actual written notice of such default by registered or certified mail shall be given to Issuer and Company by Trustee or to Issuer, Company and Trustee by the holders of not less than 25% in aggregate principal amount of all 2005 Series A Bonds outstanding and Issuer and Company shall have had thirty days after receipt of such written notice to correct said default or to cause said default to be corrected, and unless Issuer or Company shall not have corrected said default or caused said default to be corrected within the applicable period; provided, however, if said default be such that it cannot be corrected within the applicable period but is capable of being cured, it shall not constitute an event of default if corrective action is instituted by Issuer or Company within the applicable period, and diligently pursued until the default is corrected.

With regard to any alleged default concerning which notice is given to Issuer and Company under the provisions of this Section, Issuer hereby grants Company full authority for the account of Issuer to perform and observe any covenant or obligation alleged in said notice not to have been performed or observed, in the name and stead of Issuer with full power to do any and all things and acts to the same extent that Issuer could do and perform any such things and acts and with power of substitution.

## ARTICLE X

### **TRUSTEE, BOND REGISTRAR AND PAYING AGENT**

Section 10.01. Acceptance of the Trusts. Trustee, Bond Registrar, Tender Agent, Auction Agent and Paying Agent hereby accept the trusts and duties imposed upon them by this Indenture, and agree to perform said trusts and duties, but only upon and subject to the following express terms and conditions:

(a) Trustee, prior to the occurrence of an event of default (as defined in Section 9.01) under this Indenture and after curing of all events of default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an event of default has occurred (which has not been cured or waived) of which a Responsible Officer has actual knowledge, Trustee shall exercise the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of his own affairs.

(b) Trustee may execute any of the trusts or powers hereof and perform any of its duties which arise as a result of the occurrence of an event of default (as defined in Section 9.01 hereof) reasonably requiring the engagement by the Trustee of professional and other expert services which the Trustee is not qualified to undertake, and with respect to such services shall not be responsible for any misconduct or negligence on the part of any attorney, agent, receiver or other person, if selected with due care by the Trustee. The Trustee, in the exercise of its customary trust duties and powers, may perform such duties and powers by or through attorneys, agents, receivers or employees selected with due care, and shall be entitled to advice of counsel concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation and reasonable expenses (for which it shall be entitled to reimbursement pursuant to Section 10.02) to all such attorneys, agents, receivers and employees as may be selected with due care and employed in connection with the trusts hereof. In the exercise of ordinary trust duties, the Trustee shall not be answerable for the exercise of any discretion or power under this Indenture nor for anything whatever in connection with the trust hereunder, except only its own misconduct or negligence or that of its agents, officers and employees. Trustee may act upon the opinion or advice of any attorneys selected with due care (who may be the attorney or attorneys for Issuer or Company). Trustee shall not be responsible for any loss or damage resulting from any action or non-action reasonably exercised in good faith in reliance upon such opinion or advice.

(c) Trustee, Bond Registrar and Paying Agent shall not be responsible for any recital herein, or in the 2005 Series A Bonds, or for the recording or re-recording, filing or refiling of this Indenture, or any other instrument required by this Indenture to secure the 2005 Series A Bonds, including financing statements, or for insuring the Project or collecting any insurance moneys, or for the validity of the execution by Issuer of this Indenture or of any supplements thereto or instruments of further assurance, or for the sufficiency of the security for the 2005 Series A Bonds issued hereunder or intended to be secured hereby or otherwise as to the maintenance of the security hereof.

(d) Trustee, Bond Registrar and Paying Agent shall not be accountable for the use of any 2005 Series A Bonds authenticated or delivered hereunder. Trustee, Bond Registrar and Paying Agent may become the Registered Owners of 2005 Series A Bonds secured hereby with the same rights which they would have if not Trustee, Bond Registrar or Paying Agent. To the extent permitted by law, Trustee may also receive tenders and purchase in good faith 2005 Series A Bonds from itself, including any department, affiliate or subsidiary, with like effect as if it were not Trustee.

(e) Trustee, Bond Registrar and Paying Agent may conclusively rely and shall be fully protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document reasonably believed by any of them to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by Trustee, Bond Registrar and Paying Agent pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Registered Owner of any 2005 Series A Bond, shall be conclusive and binding upon all future Registered Owners of the same Bond and upon 2005 Series A Bonds issued in exchange therefor or in place thereof.

(f) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, Trustee, Bond Registrar and Paying Agent shall be conclusively entitled to rely upon a certificate signed by an Issuer Representative or a Company Representative as sufficient evidence of the facts therein contained and prior to the occurrence of a default of which Trustee, Bond Registrar and Paying Agent have been notified as provided in subsection (h) of this Section, or of which by said subsection it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion reasonably secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. Trustee, Bond Registrar and Paying Agent may accept a certificate of the Clerk of the Metro Council of Issuer under its seal to the effect that an ordinance in the form therein set forth has been adopted by Issuer as conclusive evidence that such ordinance has been duly adopted, and is in full force and effect.

(g) The permissive rights of Trustee, Bond Registrar, Tender Agent, Auction Agent and Paying Agent to do things enumerated in this Indenture shall not be construed as a duty and they shall not be answerable for other than its negligence or misconduct.

(h) Trustee, Bond Registrar and Paying Agent shall not be required to take notice or be deemed to have notice of any default hereunder except failure by Issuer to cause to be made any of the payments to Trustee required to be made by ARTICLE V hereof or the failure of Issuer or Company to file with Trustee, Bond Registrar and Paying Agent any document required by this Indenture or the Agreement to be so filed subsequent to the issuance of the 2005 Series A Bonds, unless Trustee, Bond Registrar and Paying Agent shall be specifically notified in writing of such default by Issuer, by Company or by the holders of at least 25% in aggregate principal amount of 2005 Series A Bonds then outstanding and all notices or other instruments required by this Indenture to be delivered to Trustee, Bond Registrar and Paying Agent shall be delivered at the principal offices of Trustee, Bond Registrar and Paying Agent and, in the absence of such notice so delivered, Trustee may conclusively assume there is no default except as aforesaid.

(i) At any and all reasonable times Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right (but shall be under no obligation to) fully to inspect any and all of the property herein assigned, including all books, papers and records of Issuer pertaining to the Project and the 2005 Series A Bonds, and to take such memoranda therefrom and in regard thereto as may be desired.

(j) Trustee, Bond Registrar and Paying Agent shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(k) Notwithstanding anything elsewhere in this Indenture contained, Trustee, Bond Registrar and Paying Agent shall have the right, but shall not be required, to demand, in respect of the authentication of any 2005 Series A Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by Trustee, Bond Registrar and Paying Agent deemed desirable for the purpose of establishing the right of Issuer to the authentication of any 2005 Series A Bonds, the withdrawal of any cash, or the taking of any other action by Trustee, Bond Registrar and Paying Agent.

(l) Before taking the action referred to in Section 9.02, Section 9.03, Section 9.04, Section 9.07 or Section 10.04 hereunder, Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses (including reasonable attorneys' fees and expenses), to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful default by reason of any action so taken.

(m) All moneys received by Trustee or Paying Agent shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received and shall be segregated from other funds. Neither Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder except such as may be agreed upon.

(n) In the event Trustee shall receive inconsistent or conflicting requests and indemnity from two or more groups of Bondholders, each representing less than a majority of the aggregate principal amount of the 2005 Series A Bonds then Outstanding, Trustee, in its sole discretion, may determine what action, if any, shall be taken.

(o) No provision of this Indenture shall be deemed to require the Trustee, Paying Agent, Tender Agent, Auction Agent or Bond Registrar to expend or risk its own funds or otherwise incur any financial liability in the performance or exercise of any of its duties, if the Trustee shall believe that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

Section 10.02. Fees, Charges and Expenses of Trustee, Bond Registrar and Paying Agent. Trustee, Bond Registrar, Tender Agent and Paying Agent shall be entitled to payment and reimbursement by or on behalf of Issuer for such compensation as shall be agreed to in writing between Trustee, Bond Registrar, Tender Agent, Paying Agent and the Company for their

services rendered hereunder and all advances, counsel fees and expenses and all other expenses reasonably made or incurred by Trustee and Paying Agent in connection with such services. Such compensation shall not be limited by any law with respect to compensation of a trustee of an express trust. The Trustee, Bond Registrar, Tender Agent and Paying Agent shall be entitled to the provisions for payments and reimbursements to be made by the Company as set forth in the Agreement. This provision shall survive the termination or discharge of this Indenture. Upon an event of default (as defined in Section 9.01 hereof) the Trustee, Bond Registrar, Tender Agent and Paying Agent shall have a first right of payment prior to payment on account of the principal and interest due on the 2005 Series A Bonds for payment of the reasonable fees and expenses of such fiduciaries, including reasonable attorneys' fees.

Section 10.03. Notice to Bondholders of Default. If a default occurs of which Trustee is by Section 10.01(h) hereof required to take notice or if notice of default be given as in Section 10.01(h) provided, then Trustee shall give written notice within 90 days of its actual knowledge thereof by registered or certified mail to each Registered Owner of 2005 Series A Bonds then outstanding.

Section 10.04. Intervention by Trustee. In any judicial proceeding to which Issuer or Company is a party and which in the opinion of Trustee and its counsel has a substantial bearing on the interests of Registered Owners of the 2005 Series A Bonds, Trustee may intervene on behalf of the Bondholders and shall do so if requested in writing by the Registered Owners of at least 25% of the aggregate principal amount of 2005 Series A Bonds then Outstanding. The rights and obligations of Trustee under this Section are subject to the approval of a court of competent jurisdiction.

Section 10.05. Successor Trustee by Merger or Otherwise. Any corporation or association into which Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such Conversion, sale, merger, consolidation or transfer to which it is a party, provided such corporation or association is otherwise eligible under Section 10.08 hereof, ipso facto, shall be and become successor Trustee hereunder and vested with all of the title to the Trust Estate and all the trusts, powers, discretions, immunities, privileges, responsibilities, obligations and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 10.06. Resignation by Trustee. Trustee may at any time resign from the trusts hereby created by giving thirty days' written notice to Issuer and Company, and by first class mail to each registered owner of 2005 Series A Bonds then outstanding. In addition, Trustee shall give written notice of its resignation to each Registered Owner of 2005 Series A Bonds by first class mail and by registered mail to the Company, the Tender Agent, the Remarketing Agents and the Paying Agent and Bond Registrar, if Trustee is not at such time acting as Paying Agent and Bond Registrar and Tender Agent. Such resignation shall take effect at the later of the expiration of such thirty days, and the appointment of a successor Trustee by Company and Issuer pursuant to Section 10.08 hereof; provided that, no resignation, termination or removal of

the Trustee shall be effective until a successor to the Trustee, acceptable to the Issuer and the Company, has been appointed and has accepted such appointment.

Section 10.07. Removal of Trustee. Trustee may be removed upon 30 days written notice at any time, by an instrument or concurrent instruments in writing delivered to Trustee, to Issuer and to Company and signed by the Registered Owners of a majority in aggregate principal amount of 2005 Series A Bonds then outstanding. So long as no event of default has occurred and is continuing, and no event has occurred and is continuing which, with the giving of notice or passage of time would become an event of default, Trustee may be removed by the Company at any time in the sole discretion of the Company.

Section 10.08. Appointment of Successor Trustee. In case Trustee hereunder shall resign or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case Trustee shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor shall immediately be appointed by Company and Issuer by an instrument or concurrent instruments in writing signed by a Company Representative and an Issuer Representative; provided that if at the time of such appointment an event of default has occurred and is continuing under the Agreement, such appointment of a successor Trustee shall be made by Issuer. Every such Trustee appointed pursuant to any of the provisions of this Section shall be a trust company or bank in good standing located in and incorporated under the laws of either (i) the United States of America or (ii) one of the States of the United States duly authorized to exercise trust powers and subject to examination by federal or state authority having a reported capital and surplus of not less than \$75,000,000.

Section 10.09. Judicial Appointment of Successor Trustee. In case at any time Trustee shall resign or be removed and no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this ARTICLE X prior to the date specified in the notice of resignation or removal as the date when such resignation or removal is to take effect, the Trustee resigning or being removed may forthwith apply at the expense of the Company to a court of competent jurisdiction for the appointment of a successor Trustee. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this ARTICLE X within two (2) calendar months after a vacancy shall have occurred in the office of Trustee, any Bondholder may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor Trustee.

Section 10.10. Successor Trustee. Except as provided in Section 10.05 hereof, every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its or his predecessor and also to Issuer an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of Issuer, and upon payment of all of its charges hereunder or of its successor, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers, and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its or his successor. Should any instrument in writing from

Issuer be required by any successor Trustee for more fully and certainly vesting in such successor the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by Issuer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this ARTICLE X, shall be filed and/or recorded by the successor Trustee in each recording office where this Indenture shall have been filed and/or recorded.

Section 10.11. Designation and Succession of Bond Registrar and Paying Agent.

(a) Trustee shall be the initial Paying Agent and Bond Registrar for the 2005 Series A Bonds and Issuer may, at any time, appoint additional Bond Registrars and Paying Agents with Company's direction. Any bank or trust company with or into which the Trustee, as Bond Registrar and Paying Agent may be merged or consolidated, or to which all or substantially all of the assets and business of the Bond Registrar and Paying Agent may be sold, shall be deemed the successor of such Bond Registrar and Paying Agent for the purposes of this Indenture. If the position of Bond Registrar and Paying Agent shall become vacant for any reason, Issuer shall, at the direction of the Company, within thirty days thereafter, appoint such bank or trust company as shall be specified by Company and located in the same city as such Bond Registrar and Paying Agent to fill such vacancy; provided, however, that if Issuer, upon direction of the Company, shall fail to appoint such Bond Registrar and Paying Agent within said period, Trustee shall make such appointment. Any corporation or national banking association into which any Paying Agent may be merged or converted or with which it may be consolidated, or any corporation or national banking association resulting from any merger, consolidation or conversion to which any Paying Agent shall be a party, or any corporation or national banking association succeeding to all or substantially all of the corporate trust business of any Paying Agent, shall be the successor of the Paying Agent hereunder, if such successor corporation or national banking association is otherwise eligible as a successor Trustee or Bond Registrar under ARTICLE X, without the execution or filing of any further act on the part of the parties hereto or the Paying Agent or such successor corporation or national banking association.

(b) Issuer shall require any subsequent paying agent other than the Paying Agent to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree that such subsequent Paying Agent will (1) hold all sums held by it for the payment of the principal or redemption price of, or interest on, 2005 Series A Bonds in trust for the benefit of the Registered Owners of such 2005 Series A Bonds until such sums shall be paid to such Registered Owners or otherwise disposed of as herein provided; (2) give Trustee and the Bond Registrar notice of any default by Issuer or Company in the making of any payment of principal or redemption price or interest on the 2005 Series A Bonds of which such Paying Agent has actual knowledge; and (3) at any time during the continuance of such default, upon the written request of Trustee and the Bond Registrar, forthwith pay to Trustee all sums so held in trust by such Paying Agent.



Section 10.12. Additional Paying Agents. Issuer may, with the approval of or at the request of, Company (unless an event of default under this Indenture has occurred and is continuing), appoint an additional Paying Agent or Paying Agents for the 2005 Series A Bonds, subject to the conditions set forth in Section 10.13 hereof. The Paying Agent (if other than Trustee) shall designate to Issuer and Trustee its principal office and signify (and Trustee hereby signifies) its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to Issuer and Trustee under which the Paying Agent will agree, particularly:

(a) to hold all sums held by it for the payment of the principal of or interest on 2005 Series A Bonds in trust for the benefit of the Bondholders until such sums shall be paid to such Bondholders or otherwise disposed of as herein provided;

(b) to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by Issuer, Trustee and Company at all reasonable times; and

(c) at any time during the continuance of any default under Section 9.01(a) or (b) hereof, and upon the written request of Trustee, to forthwith pay to Trustee all sums so held in trust by such Paying Agent.

Issuer shall cooperate with Trustee and Company to cause the necessary arrangements to be made and to be thereafter continued whereby funds derived from the sources specified in Section 6.03 hereof will be made available for the payment when due of 2005 Series A Bonds as presented at the principal office of the Paying Agent.

The Paying Agents shall enjoy the same protective provisions in respect of the performance of their duties hereunder as are specified in Section 10.01 hereof with respect to Trustee as such provisions may be applicable.

Section 10.13. Qualifications of Paying Agent; Resignation; Removal. The Paying Agent, if other than Trustee, shall be a corporation duly organized under the laws of the United States of America or any state or territory thereof, having a combined capital stock, surplus and undivided profits of at least \$50,000,000 and authorized by law to perform all the duties imposed upon it by this Indenture. The Paying Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least sixty (60) days' (if other than the Trustee) notice to Issuer, Company and Trustee. The Paying Agent may be removed by the Company (i) at any time by a written instrument filed with the Trustee, Paying Agent and Issuer and (ii) so long as no event of default under this Indenture shall have occurred and be continuing, at the direction of Company by an instrument, signed by Issuer, filed with the Paying Agent and Trustee. Anything herein to the contrary notwithstanding, a Paying Agent that is also the Tender Agent (i) may not resign unless it also resigns as Tender Agent and such resignation shall be in accordance with Section 11.02 hereof and (ii) may not be removed as a Paying Agent unless it is also removed as Tender Agent.

In the event of the resignation or removal of the Paying Agent, the Paying Agent shall pay over, assign and deliver any moneys held by it in such capacity to its successor or, if there be no successor, to Trustee.

In the event that Issuer shall fail to appoint a Paying Agent hereunder, or in the event that the Paying Agent shall resign or be removed, or be dissolved, or if the property or affairs of the Paying Agent shall be taken under the control of any state or Federal court or administrative body because of bankruptcy or insolvency, or for any other reason, and Issuer shall not have appointed its successor as Paying Agent, Trustee shall ipso facto be deemed to be the Paying Agent for all purposes of this Indenture until the appointment by Issuer of the Paying Agent or successor Paying Agent, as the case may be.

Section 10.14. Appointment of a Co-Trustee. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the laws of the Commonwealth of Kentucky) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Agreement, and in particular in case of the enforcement of either on default, or in case Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to Trustee or hold title to the properties, in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that Trustee appoint an additional individual or institution as a separate or Co-Trustee; and Trustee is hereby authorized to do so. The following provisions of this Section are intended to effectuate this purpose.

In the event that Trustee appoints an additional individual or institution as a separate or Co-Trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to Trustee with respect thereto shall be exercisable by and vest in such separate or Co-Trustee but only to the extent necessary to enable such separate or Co-Trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or Co-Trustee shall run to and be enforceable by either of them.

Should any deed, conveyance or instrument in writing from Issuer be required by the separate Trustee or Co-Trustee so appointed by Trustee for more fully and certainly vesting in and confirming to him or if such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by Issuer. In case any separate Trustee or Co-Trustee, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate Trustee or Co-Trustee, so far as permitted by law, shall vest in and be exercised by Trustee until the appointment of a successor to such separate Trustee or Co-Trustee.

Section 10.15. Successor Trustee as Bond Registrar, Custodian of Bond Fund and Rebate Fund and Paying Agent. In the event of a change in the office of Trustee, the Trustee which has resigned or been removed shall cease to be Bond Registrar and custodian of the Bond Fund and Rebate Fund and Paying Agent for principal and interest of the 2005 Series A Bonds and the successor Trustee shall become such Bond Registrar, custodian and Paying Agent.

Section 10.16. Service as Trustee, Authenticating Agent, Paying Agent and Bond Registrar. Notwithstanding any provision hereof to the contrary, in the event and for so long as the same entity shall serve hereunder as Trustee, Authenticating Agent, Paying Agent, Tender Agent and Bond Registrar, any notice required to be given or by, or any act to be taken by, such entity in any one of such capacities may be given to or by, or taken by, such entity in any one of its other capacities, and to permit such entity to act uniformly in any capacity in which it is named. Notwithstanding any provision hereof to the contrary, so long as the same entity acts as Trustee, Authenticating Agent, Paying Agent, Tender Agent and Bond Registrar, such entity need not give any notice to itself in such other capacity.

## **ARTICLE XI**

### **THE REMARKETING AGENTS, THE TENDER AGENT AND THE AUCTION AGENT**

#### Section 11.01. The Remarketing Agents.

(a) Issuer hereby appoints Goldman, Sachs & Co. and UBS Financial Services Inc., as Remarketing Agents under this Indenture. The initial Principal Office of the Remarketing Agents shall be at 85 Broad Street, New York, New York 10004 with respect to Goldman, Sachs & Co. and 1285 Avenue of the Americas, 15<sup>th</sup> Floor, New York, New York 10019 with respect to UBS Financial Services Inc.

(b) Issuer at the direction of Company, shall appoint additional Remarketing Agents. If, at any time, during which the 2005 Series A Bonds bear interest at other than the ARS Rate, there is more than one Remarketing Agent (which term, as used hereinafter in this Section 11.01, means any one entity serving in the capacity of Remarketing Agent) hereunder, each such Remarketing Agent shall perform such of the duties of the Remarketing Agent hereunder as are set forth in the Remarketing Agreement and such Remarketing Agents shall deliver to Trustee and the Tender Agent a written instrument specifying directions, in the event of conflicting directions given by those Remarketing Agents to the Bond Registrar or Tender Agent, which set of directions shall be controlling for all purposes hereunder. Each Remarketing Agent, by written instrument delivered to Issuer, the Bond Registrar and Company (which written instrument may be a Remarketing Agreement), shall accept the duties and obligations imposed on it under this Indenture, subject to the terms and provisions of the Remarketing Agreement, and shall become a party to a Remarketing Agreement.

(c) In addition to the other obligations imposed on a Remarketing Agent hereunder, such Remarketing Agent shall keep such books and records with respect to its duties as Remarketing Agent as shall be consistent with prudent industry practice and shall make such books and records available for inspection by Issuer, Trustee, the Bond Registrar and Company at all reasonable times, upon reasonable written notice.

(d) At any time a Remarketing Agent may resign in accordance with the Remarketing Agreement. Any Remarketing Agent may be removed at any time in accordance with the Remarketing Agreement. Upon resignation or removal of a Remarketing Agent, Issuer, at the direction of Company shall either appoint a successor Remarketing Agent or authorize the remaining Remarketing Agent or Agents to act alone in such capacity, in which case all

references in this Indenture to the Remarketing Agents shall mean the remaining Remarketing Agent or Agents. If the last remaining Remarketing Agent resigns or is removed, Issuer, at the direction of Company, shall appoint a successor Remarketing Agent. Any successor Remarketing Agent shall have combined capital stock, surplus and undivided profits of at least \$50,000,000, shall be acceptable to Company, and shall be approved in writing by the Rating Services then maintaining ratings on the 2005 Series A Bonds.

(e) In the event that Issuer shall fail to appoint a successor Remarketing Agent upon the resignation or removal of the last remaining Remarketing Agent or upon its dissolution, insolvency or bankruptcy, Trustee shall appoint a Remarketing Agent.

Section 11.02. The Tender Agent.

(a) The Tender Agent shall be Deutsche Bank Trust Company Americas, 25 DeForest Avenue, 2<sup>nd</sup> Floor, Summit, New Jersey 07901, Attention: Corporate Trust and Agency Services (Municipal Unit). Company shall appoint any successor Tender Agent for the 2005 Series A Bonds, subject to the conditions set forth in Section 11.02(b) hereof. The Tender Agent shall (if other than the Trustee) designate its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to Issuer, Trustee, the Bond Registrar, Company, the Remarketing Agents in which the Tender Agent will agree, particularly:

(i) to hold all 2005 Series A Bonds delivered to it pursuant to Section 3.01 hereof, as agent and bailee of, and in escrow for the benefit of, the respective Registered Owners thereof until moneys representing the purchase price of such 2005 Series A Bonds shall have been delivered to or for the account of or to the order of such Registered Owners;

(ii) to hold all moneys (without investment thereof) delivered to it hereunder for the purchase of 2005 Series A Bonds pursuant to Section 3.01 hereof as agent and bailee of, and in escrow for the benefit of, the person or entity which shall have so delivered such moneys until the 2005 Series A Bonds purchased with such moneys shall have been delivered to or for the account of such person or entity and thereafter to hold such moneys (without investment thereof) as agent and bailee of, and in escrow for the benefit of, the person or entity which shall be entitled thereto on the Purchase Date;

(iii) to hold 2005 Series A Bonds for the account of Company as contemplated by Section 3.04(a)(ii) hereof; and

(iv) to keep such books and records as shall be consistent with prudent industry practice and to make such books and records available for inspection by Issuer, Trustee, the Bond Registrar and Company at all reasonable times.

(b) The Tender Agent shall be a Paying Agent for the 2005 Series A Bonds duly qualified under Section 10.01 hereof and authorized by law to perform all the duties imposed upon it by this Indenture. The Tender Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 30 days' notice to Issuer, Trustee, the Bond Registrar, Company and the Remarketing Agents. In the event that Company

shall fail to appoint a successor Tender Agent, upon the resignation or removal of the Tender Agent, Trustee shall either appoint a Tender Agent or itself act as Tender Agent until the appointment of a successor Tender Agent. Any successor Tender Agent appointed hereunder shall also be appointed a Paying Agent hereunder. Any successor Tender Agent appointed hereunder shall be acceptable to Company. The Tender Agent may be removed at any time by an instrument signed by Company, filed with Issuer, Trustee, the Bond Registrar and the Remarketing Agents.

In the event of the resignation or removal of the Tender Agent, the Tender Agent shall deliver any 2005 Series A Bonds and moneys held by it in such capacity to its successor or, if there is no successor, to the Bond Registrar.

Section 11.03. Notices. The Bond Registrar shall, if it has received the relevant notices, within 25 days of the resignation or removal of the Remarketing Agents or the Tender Agent or the appointment of a successor Remarketing Agent or Tender Agent, give notice thereof by first class mail, postage prepaid, to the Registered Owners of the 2005 Series A Bonds.

Section 11.04. Appointment of Auction Agent; Qualifications of Auction Agent; Resignation; Removal. Deutsche Bank Trust Company Americas is hereby appointed as the initial Auction Agent. On or before the effective date of a subsequent Conversion to a ARS Rate Period, or upon the resignation or removal of the Auction Agent, an Auction Agent shall be appointed by the Company. The Auction Agent shall evidence its acceptance of such appointment by entering into an Auction Agreement with the Company. The Auction Agent shall be (a) a bank or trust company duly organized under the laws of the United States of America or any state or territory thereof having its principal place of business in the City of New York, New York and having a combined capital stock, surplus and undivided profits of at least \$30,000,000 or (b) a member of the National Association of Securities Dealers, Inc., having a capitalization of at least \$30,000,000 and, in either case, authorized by law to perform all the duties imposed upon it under the Auction Agreement. The Auction Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 90 days' notice to the Trustee, the Company and the Issuer, provided, that if the Auction Agent has not been compensated for its services, following demand for such compensation, for a period of 60 days, the Auction Agent may resign upon 30 days' notice to the Trustee, the Company, the Auction Agent and the Issuer. The Auction Agent shall continue to perform its duties hereunder until its successor has been appointed unless the Auction Agent has not been compensated for its services. The Auction Agent may be removed at any time by the Company upon at least 90 days' notice; provided that, the Company shall have entered into an agreement in substantially the form of the Auction Agreement with a successor Auction Agent.

Section 11.05. Several Capacities. Anything herein to the contrary notwithstanding, the same entity may serve hereunder as the Trustee, the Paying Agent or a Co-Paying Agent, the Bond Registrar, the Tender Agent, the Auction Agent and the Remarketing Agents, and in any combination of such capacities to the extent permitted by law. Any such entity may in good faith buy, sell, own, hold and deal in any of the 2005 Series A Bonds and may join in any action which any Bondholders may be entitled to take with like effect as if such entity were not appointed to act in such capacity under this Indenture.

## ARTICLE XII

### SUPPLEMENTAL INDENTURES

Section 12.01. Supplemental Indentures Not Requiring Consent of Bondholders. Issuer and Trustee may, without the consent of, or notice to, any of the Bondholders enter into an indenture or indentures supplemental to this Indenture as shall not be inconsistent with the terms and provisions hereof for any one or more of the following purposes:

- (a) To cure any ambiguity or formal defect or omission in this Indenture;
- (b) To grant to or confer upon Trustee, as may lawfully be granted, for the benefit of the Bondholders any additional rights, remedies, powers or authorities that may lawfully be granted to or conferred upon the Bondholders or Trustee;
- (c) To subject to this Indenture additional revenues, properties or collateral;
- (d) To modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939, as then amended, or any similar federal statute hereafter in effect or to permit the qualification of the 2005 Series A Bonds for sale under the securities laws of any of the States of the United States, and, if they so determine, to add to this Indenture or any indenture supplemental hereto such other terms, conditions and provisions as may be permitted by said Trust Indenture Act of 1939 or similar federal statute;
- (e) To add to the covenants and agreements of Issuer contained in this Indenture other covenants and agreements thereafter to be observed for the protection of the Bondholders, or to surrender or limit any right, power or authority herein reserved to or conferred upon Issuer;
- (f) To make any other modification or change to the Indenture which, in the sole judgment of Trustee, does not adversely affect Trustee or any Registered Owner of the 2005 Series A Bonds;
- (g) To make other amendments not otherwise permitted by subsections (a), (b), (c), (d) or (f) to the provisions hereby relating to federal income tax matters under the Code or other relevant provisions, if, in the opinion of Bond Counsel, those amendments would not adversely affect the exclusion of the interest on the 2005 Series A Bonds outstanding from gross income for federal income tax purposes;
- (h) To make any modifications or changes to the Indenture necessary to provide liquidity or credit support for the 2005 Series A Bonds, or any of them (including without limitation any line of credit, letter of credit, guaranty agreement or insurance coverage), including any modifications necessary to upgrade or maintain the then applicable ratings on the 2005 Series A Bonds, or any of them; and
- (i) To provide for the conversion of any Outstanding 2005 Series A Bonds to uncertificated format or to provide changes to or for the book-entry system.

Before the Issuer and the Trustee shall enter into any supplemental indenture pursuant to this Section, there shall have been filed with the Trustee an opinion of Bond Counsel stating that such supplemental indenture is authorized or permitted by the Indenture and complies with its terms and that upon execution it will be valid and binding upon the parties thereto in accordance with its terms.

Section 12.02. Supplemental Indentures Requiring Consent of Bondholders. Exclusive of supplemental indentures covered by Section 12.01 hereof and subject to the terms and provisions contained in this Section, the holders of a majority in aggregate principal amount of the 2005 Series A Bonds then Outstanding shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by Issuer and Trustee of such other indenture or indentures supplemental hereto for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided, however, that nothing in this Section or Section 12.01 contained shall permit, or be construed as permitting, without the affirmative consent of the Registered Owners of all 2005 Series A Bonds so affected:

(a) an extension of the maturity of the principal of or the interest on any 2005 Series A Bond issued hereunder, or a reduction in the principal amount of any 2005 Series A Bond or the rate of interest or time of redemption or redemption premium thereon, or

(b) a privilege or priority of any 2005 Series A Bond or 2005 Series A Bonds over any other 2005 Series A Bond or 2005 Series A Bonds, or

(c) a reduction in the aggregate principal amount of the 2005 Series A Bonds required for consent to such supplemental indenture, or

(d) the deprivation of the holder of any 2005 Series A Bond then outstanding of the lien created by this Indenture.

If at any time Issuer shall request Trustee to enter into any such supplemental indenture for any of the purposes of this Section, Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed by first class mail to all Bondholders. Such notice shall be prepared by the Company and shall briefly set forth the nature of the proposed supplemental indenture, or shall have attached thereto a copy of such proposed supplemental indenture, and, if not so attached, shall state that copies thereof are on file at the principal corporate trust office of Trustee for inspection by all Bondholders. If, within sixty days or such longer period as shall be prescribed by Issuer or Company following the mailing of such notice, the holders of a majority in aggregate principal amount of the 2005 Series A Bonds outstanding at the time of the proposed execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no holder of any 2005 Series A Bond shall have any right to object to any of the terms and provisions contained herein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain Trustee or Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as in this Section permitted and provided, this Indenture shall be deemed to be modified and amended in accordance therewith.

Anything herein to the contrary notwithstanding, a supplemental indenture under this Article shall not become effective unless and until Company shall have consented to the execution and delivery of such supplemental indenture. In this regard, Trustee shall at the expense of the Company, cause notice of the proposed execution and delivery of any such supplemental indenture together with a copy of the proposed supplemental indenture to be mailed by certified or registered mail to Company at least fifteen days prior to the proposed date of execution and delivery of any such supplemental indenture. Company shall be deemed to have consented to the execution and delivery of any such supplemental indenture if Trustee does not receive a notice of protest or objection thereto signed by or on behalf of Company on or before 4:30 p.m., local time in the city in which the principal corporate trust office of Trustee is located, on the fifteenth day after the mailing of said notice and a copy of the proposed supplemental indenture.

Before the Issuer and the Trustee shall enter into any supplemental indenture pursuant to this Section, there shall have been filed with the Trustee an opinion of Bond Counsel stating that such supplemental indenture is authorized or permitted by the Indenture and complies with its terms and that upon execution it will be valid and binding upon the parties thereto in accordance with its terms. The Trustee shall not be required to execute any supplemental indenture which materially adversely effects the rights, duties, indemnities or immunities of the Trustee.

## **ARTICLE XIII**

### **AMENDMENT OF AGREEMENT**

Section 13.01. Amendments, etc., to Agreement Not Requiring Consent of Bondholders. Issuer and Trustee shall without the consent of or notice to the Bondholders consent to any amendment, change or modification of the Agreement as may be required (i) by the provisions of the Agreement or this Indenture, (ii) for the purpose of curing any ambiguity or formal defect or omission, (iii) in connection with any modification or change necessary to conform the Agreement with changes and modifications to the Indenture made pursuant to Section 12.01 or (iv) in connection with any other change therein which, does not adversely affect Trustee or any holders of the 2005 Series A Bonds; and in making such determination the Trustee may rely upon an opinion of Bond Counsel.

Before Issuer shall enter into, and Trustee shall consent to, any modification, alteration, amendment or supplement to the Agreement pursuant to this Section, there shall be delivered to Issuer and Trustee a written opinion of Bond Counsel stating that such modification, alteration, amendment or supplement is authorized or permitted by the Agreement, this Indenture and the Act, complies with their respective terms, will, upon the execution and delivery thereof, be valid and binding upon Issuer in accordance with its terms and will not adversely affect the exclusion from gross income for Federal income tax purposes of interest on any of the 2005 Series A Bonds; and in making such determination the Trustee may rely upon an opinion of Bond Counsel. The Trustee shall not be required to execute any supplemental indenture which materially adversely effects the rights, duties, indemnities or immunities of the Trustee.

Section 13.02. Amendments, etc., to Agreement Requiring Consent of Bondholders. Except for the amendments, changes or modifications as provided in Section 13.01 hereof,



neither Issuer nor Trustee shall consent to any other amendment, change or modification of the Agreement without the giving of notice and the written approval or consent of the holders of not less than a majority in aggregate principal amount of the 2005 Series A Bonds at the time outstanding given and procured as in this Section provided; and in the event any of the matters of the type referred to in Section 12.02(a) through (d) of this Indenture are proposed for amendment with respect to the Agreement, the approval of the holders of 100% in aggregate principal amount of the 2005 Series A Bonds at the time Outstanding shall be required. If at any time Issuer and Company shall request the consent of Trustee to any such proposed amendment, change or modification of the Agreement, Trustee shall, upon being reasonably indemnified with respect to expenses, cause notice of such proposed amendment, change or modification to be given in the same manner as provided by Section 12.02 hereof with respect to supplemental indentures and in addition, notice shall be given in the same manner to the Auction Agent. The Company shall prepare such notice, which shall briefly set forth the nature of such proposed amendment, change or modification, or shall have attached thereto a copy of such proposed amendment, change or modification and (if not so attached) shall state that copies of the instrument embodying the same are on file with Trustee for inspection by all Bondholders.

Before Issuer shall enter into, and Trustee shall consent to, any modification, alteration, amendment or supplement to the Agreement pursuant to this Section, there shall be delivered to Issuer and Trustee an opinion of Bond Counsel stating that such modification, alteration, amendment or supplement is authorized or permitted by the Agreement, this Indenture and the Act, complies with their respective terms, will, upon the execution and delivery thereof, be valid and binding upon Issuer in accordance with its terms and will not adversely affect the exclusion from gross income for Federal income tax purposes of interest on any of the 2005 Series A Bonds.

## **ARTICLE XIV**

### **MISCELLANEOUS**

Section 14.01. Consents, etc., of Bondholders. Any consent, request, direction, approval, waiver, objection or other instrument required by this Indenture to be signed and executed by the Bondholders may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and of the ownership of 2005 Series A Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of Trustee with regard to any action taken by it under such request or other instrument, namely that the fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by an affidavit of any witness to such execution.

Any consent, request, direction, approval, objection, waiver or other action by the holder of any 2005 Series A Bond shall bind every future holder of the same 2005 Series A Bond and the holder of every 2005 Series A Bond issued upon the transfer thereof or in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Issuer

in reliance thereon, whether or not notation of such action is made upon such 2005 Series A Bond.

In determining whether the holders of the required principal amount of 2005 Series A Bonds have concurred in any consent, request, direction, approval, waiver, objection or similar action, 2005 Series A Bonds owned by Company or Issuer or by any other person directly or indirectly controlling or controlled by or under direct or indirect common control with Company or Issuer shall be disregarded and deemed not to be outstanding, except that, for the purpose of determining whether Trustee shall be fully protected in relying on any such consent, request, direction, approval, waiver, objection or similar action, only 2005 Series A Bonds which a responsible officer of Trustee actually knows are so owned shall be so disregarded. Also, subject to the foregoing, only 2005 Series A Bonds outstanding at the time shall be considered in any such determination.

Section 14.02. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the 2005 Series A Bonds is intended or shall be construed to give to any person or company other than the parties hereto, the holders of the 2005 Series A Bonds any legal or equitable right, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the holders of the 2005 Series A Bonds as herein provided.

Section 14.03. Severability. If any provision of this Indenture shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative, or unenforceable to any extent whatever.

Section 14.04. Notices. Any notice, request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed by registered or certified mail, postage prepaid, or sent by telegram, addressed as follows:

If to Issuer, at 527 West Jefferson Street, Louisville, Kentucky 40202; Attn: Mayor

If to Trustee, at 25 DeForest Avenue, 2<sup>nd</sup> Floor, Summit, New Jersey 07901, Attention: Corporate Trust and Agency Services (Municipal Unit);

If to Company, at its corporate headquarters, 220 West Main Street, Louisville, Kentucky 40202, Attention: Treasurer;

If to Remarketing Agents, at 85 Broad Street, New York, New York 10004 with respect to Goldman, Sachs & Co., and 1285 Avenue of the Americas, 15<sup>th</sup> Floor, New York, New York 10019 with respect to UBS Financial Services Inc.;

If to Tender Agent, at 25 DeForest Avenue, 2<sup>nd</sup> Floor, Summit, New Jersey 07901, Attention: Corporate Trust and Agency Services (Municipal Unit);

If to Paying Agent, at 25 DeForest Avenue, 2<sup>nd</sup> Floor, Summit, New Jersey 07901, Attention: Corporate Trust and Agency Services (Municipal Unit);

If to Bond Registrar, at 25 DeForest Avenue, 2<sup>nd</sup> Floor, Summit, New Jersey 07901, Attention: Corporate Trust and Agency Services (Municipal Unit);

If to the Auction Agent, at 60 Wall Street, 27<sup>th</sup> Floor, Mailstop NYC60-2715, New York, New York 10005, Attn: Corporate Trust & Agency Services (Municipal Group);

A duplicate copy of each notice required to be given hereunder by either Issuer or Trustee shall also be given to Company, and a duplicate copy of each notice required to be given hereunder by Trustee to either Issuer or Company shall also be given to the other. Issuer, Company, Trustee, Paying Agent, Remarketing Agents, Auction Agent, Tender Agent and Bond Registrar may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 14.05. Payments Due on other than Business Days. If the date for making any payment or the last date of performance of any act or the exercising of any right, as provided in this Indenture shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Indenture, and if done on such Business Day no interest with respect to such payment shall accrue for the period after such nominal date.

Section 14.06. Execution of Counterparts. This Indenture shall be simultaneously executed in several counterparts each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 14.07. Applicable Law. This Indenture shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky, provided, however, that the rights, protections, privileges and immunities of the Trustee, Tender Agent, Paying Agent and Bond Registrar shall be governed by and construed in accordance with the laws of the State of Delaware.

Section 14.08. Information under Commercial Code. The following information is stated in order to facilitate filings under the Uniform Commercial Code:

The secured party is Deutsche Bank Trust Company Americas, as Trustee. Its address from which information concerning the security interest may be obtained is at 25 DeForest Avenue, 2<sup>nd</sup> Floor, Summit, New Jersey 07901, Attention: Corporate Trust and Agency Services (Municipal Unit). The debtor is Louisville/Jefferson County Metro Government, Kentucky, 527 West Jefferson Street, Louisville, Kentucky 40202, Attention: Mayor.

Section 14.09. Effect of Purchase of 2005 Series A Bonds. No purchase of 2005 Series A Bonds pursuant to ARTICLE III shall be deemed to be a payment or redemption of such 2005 Series A Bonds or any portion thereof and such purchase will not operate to extinguish or discharge the indebtedness evidenced by such 2005 Series A Bonds.

Section 14.10. No Rights Conferred on Others. Except as expressly provided herein, nothing herein contained shall confer any right upon any Person other than the parties hereto and the holders of the 2005 Series A Bonds.

Section 14.11. Counterparts. This Indenture may be executed in any number of counterparts, each of which when so executed and delivered shall be an original; but such counterparts shall together constitute but one and the same instrument.

Section 14.12. Captions. The captions or headings in this Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions, Articles or Sections of this Indenture.

Section 14.13. No Pecuniary Liability of Issuer. No provision, covenant or agreement contained in this Indenture or in the Agreement, nor breach thereof, shall constitute or give rise to any pecuniary liability whatsoever of Issuer or a charge upon any of its assets or its general credit or taxing powers. In making such covenants, agreements or provisions, Issuer has not obligated itself, except as to application of revenues as provided in the Agreement and as hereinabove provided.

Section 14.14. Successors and Assigns. All the covenants, promises and agreements in this Indenture contained by or on behalf of Issuer or by or on behalf of Trustee shall bind and inure to the benefit of their respective successors and assigns, whether so expressed or not.

(remainder of page left blank intentionally)

IN WITNESS WHEREOF, the Louisville/Jefferson County Metro Government, Kentucky, has caused these presents to be signed in its name and behalf by its Mayor and its official seal to be hereunto affixed and attested by its Metro Council Clerk; and to evidence its acceptance of the trusts hereby created, Deutsche Bank Trust Company Americas, as Trustee, has caused these presents to be signed and sealed in its name and behalf by its duly authorized officers, as of February 1, 2005, amended and restated as of September 1, 2008.

LOUISVILLE/JEFFERSON COUNTY  
METRO GOVERNMENT, KENTUCKY

(SEAL)

By \_\_\_\_\_  
JERRY E. ABRAMSON  
Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

Mike O'Connell  
Jefferson County Attorney

\_\_\_\_\_  
KATHLEEN J. HERRON  
Metro Council Clerk

By \_\_\_\_\_  
JAMES T. CAREY  
Assistant County Attorney

DEUTSCHE BANK TRUST COMPANY  
AMERICAS  
Trustee

(SEAL)

By \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

By \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

